TAIWAN COMMUNIQUE AND SEPARATION OF POWERS

HEARINGS

BEFORE THE

SUBCOMMITTEE ON SEPARATION OF POWERS

OF THE

COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

TAIWAN COMMUNIQUE AND SEPARATION OF POWERS

SEPTEMBER 17 AND 27, 1982

Serial No. J-97-137

Printed for the use of the Committee on the Judiciary

U.S. GOVERNMENT PRINTING OFFICE
11-450 O
WASHINGTON : 1983

S521-20

COMMITTEE ON THE JUDICIARY

STROM THURMOND, South Carolina, *Chairman*

CHARLES McC. MATHIAS, Jr., Maryland
PAUL LAXALT, Nevada
ORRIN G. HATCH, Utah
ROBERT DOLE, Kansas
ALAN K. SIMPSON, Wyoming
JOHN P. EAST, North Carolina
CHARLES E. GRASSLEY, Iowa
JEREMIAH DENTON, Alabama
ARLEN SPECTER, Pennsylvania

JOSEPH R. BIDEN, Jr., Delaware
EDWARD M. KENNEDY, Massachusetts
ROBERT C. BYRD, West Virginia
HOWARD M. METZENBAUM, Ohio
DENNIS DeCONCINI, Arizona
PATRICK J. LEAHY, Vermont
MAX BAUCUS, Montana
HOWELL HEFLIN, Alabama

Vinton DeVane Lide, *Chief Counsel and Staff Director*
Mark H. Gitenstein, *Minority Chief Counsel*

Subcommittee on Separation of Powers

JOHN P. EAST, North Carolina, *Chairman*

ORRIN G. HATCH, Utah
JEREMIAH DENTON, Alabama

MAX BAUCUS, Montana
HOWELL HEFLIN, Alabama

James McClellan, *Chief Counsel and Staff Director*
Ken Kay, *Minority Chief Counsel*

CONTENTS

Hearings held on: Page
Friday, September 17, 1982 1
Monday, September 27, 1982 91

STATEMENTS

East, John P. (opening) 1, 91

CHRONOLOGICAL LIST OF WITNESSES

Friday, September 17, 1982

Symms, Hon. Steven D., a U.S. Senator from the State of Idaho, and Hon. Richard Stone, former U.S. Senator and cosponsor of the Taiwan Relations Act 10
Cline, Dr. Ray, senior associate, Georgetown Center for Strategic and International Studies, Washington, D.C.; Ambassador Leonard Unger, former Ambassador to the Republic of China on Taiwan, Fletcher School of Law and Diplomacy, Tufts University, Medford, Mass.; Prof. A. James Gregor, Institute of International Studies, University of California at Berkeley; and Prof. Harold Hinton, George Washington University, Washington, D.C 21

Monday, September 27, 1982

Robinson, Davis R., Legal Adviser, Department of State, accompanied by Terence Fortune, Assistant Legal Adviser for East Asian Affairs; and Theodore Olson, Assistant Attorney General, Office of Legal Counsel, Department of Justice 95

ALPHABETICAL LISTING AND SUBMITTED MATERIAL

Cline, Dr. Ray S.:
  Testimony 21
  Prepared statement 45
East, Senator John P.:
  Prepared statement of Senator Barry Goldwater 1
  Article, "From the Hill," by Bob Kasten, from the Washington Times, September 17, 1982 5
  Prepared statement of Congressman Gerald B. Solomon 6
  Questions of Subcommittee on Separation of Powers and responses of the Department of State 116
Gregor, Prof. A. James:
  Testimony 21
  Prepared statement 55
  Articles:
    "The Future of US-Taiwan Relations," by Prof. Hungdah Chiu, from Asian Affairs, September-October 1981 63
    "II. The Taiwan Relations Act," by Edwin K. Snyder, A. James Gregor and Maria Hsia Chang, from "The Taiwan Relations Act and the Defense of the Republic of China," (Berkeley: Institute of International Studies, 1980) 75
Hinton, Prof. Harold:
  Testimony 21
  Prepared statement 86
Olson, Theodore: Testimony 95
Robinson, Davis R.: Testimony 95

Page
Stone, Hon. Richard (former Senator from the State of Florida): Testimony 10
Symms, Senator Steven D.:
  Testimony 10
  Prepared statement 19
  "Unfair to Taiwan," article, from the New York Times, August 27, 1981 20
Unger, Ambassador Leonard: Testimony 21

APPENDIX

EXHIBIT A.—DOCUMENTS RELATING TO THE TAIWAN COMMUNIQUE

Shanghai Communique, joint statement following discussions with leaders of the People's Republic of China, from Public Papers of the Presidents, Richard Nixon, February 27, 1972 151
Statement by President Jimmy Carter to the Nation, December 15, 1978 155
Text of Mutual Defense Treaty between the United States of America and the Republic of China 157
Memorandum from the President, Jimmy Carter, "United States Relations with the People on Taiwan," December 30, 1978 160
Text of the Taiwan legislation adopted by the Congress, and signed into law by President Carter on April 10, 1979 161
Executive Order 12143—Maintaining unofficial relations with the people on Taiwan 167
Letters from President Ronald Reagan to:
  Zhao Ziyang, Premier of the State Council of the People's Republic of China, April 5, 1982 169
  Deng Xiaoping, Vice Chairman of the Central Committee of the People's Republic of China, April 5, 1982 170
  Hu Yaobang, Chairman of the Chinese Communist Party, May 3, 1982 172
  Hon. Walter H. Judd, May 18, 1982 174
  Hon. Jerauld Wright, May 18, 1982 175
"Policy Toward China and Taiwan," remarks from President Reagan's press conference, July 28, 1982 176
United States-China Joint Communique, August 1982, U.S. Department of State, Bureau of Public Affairs 177
Remarks from President Reagan's speech to GOP candidates, October 6, 1982, from Presidential Documents, October 11, 1982, Vol. 18, No. 40 181
Letters submitted by Senator East:
  From:
    Powell A. Moore, Assistant Secretary for Congressional Relations, Department of State 182
    Frank C. Carlucci, Deputy Secretary of Defense 184
    John W. Vessey, Jr., Chairman, Joint Chiefs of Staff 185
    Senator John P. East to President Reagan, October 20, 1982 186
    Powell A. Moore, Assistant Secretary for Congressional Relations 188
    Senator John P. East to Powell A. Moore, November 5, 1982 189
Red China: Nine-point statement of September 30, 1981, from the New York Times, October 1, 1981, text of statement 190
Red China's message to compatriots on Taiwan, December 31, 1978 191

EXHIBIT B.—RED CHINESE RELEASES AND SUMMARY ANALYSES

PRC International Affairs bulletins:
  August 17, 1982:
    PRC-U.S. communique on Taiwan arms sales issued 193
    Ministry of Foreign Affairs statement 194
    Renmin Ribao editorial 195
  August 23, 1982: U.S. officials said to distort communique 196
  September 8, 1982: "V. Adhering to an independent foreign policy," from Chinese Communist Party Chairman Hu Yaobang's speech to the 12th Party Congress 197
  September 23, 1982: "U.S. 'Anti-China elements' attack communique" 200
  October 8, 1982: Huang Hua speaks on PRC-U.S. relations 201
  October 12, 1982:
    Reaction to Reagan statement on arms sales 203
    AFP report 203
    Renmin Ribao raps Reagan's arms sales conditions 203

PRC International Affairs bulletins—Continued
  October 12, 1982—Continued
    Commentary: "There Can Be No Preconditions for Implementing the Sino-United States Joint Communique" .... Page 204
  October 24, 1982: Deng Xiaoping raps U.S. Taiwan policy 205
  October 27, 1982: U.S. policy on Taiwan violates PRC sovereignty 205
"A Brief Analysis of U.S.-China Joint Communique of August 17, 1982," by Dr. Lyushun Shen, Foreign Policy Research Institute 206
"An Analysis of Certain Problems of the U.S.-China Joint Communique on U.S. Arm Sales to Taiwan (August 17, 1982) and the Need to Clarify the U.S. Position on Certain Vital Issues," by Hungdah Chiu, professor, University of Maryland 213

Exhibit C.—Additional Statements

USA-ROC Economic Council, with letter 222
Bechtel Power Corp 230
Morton A. Kaplan:
  "United States Foreign Policy and the China Problem" 232
  "Adversary Foreign Policy: The Soviet Case," from World Politics, January 1965 247

Exhibit D.—Newspaper Articles

Published comments concerning the United States-China Joint Communique... 250

Exhibit E.—Reports

"Recognize the Chinese Communist 'United Front' Tactics for What They Are," by Tsai Wei-ping, from Issues & Studies, vol. XVI, No. 12, Dec. 1980.... 268
"The Republic of China: A Strategic Appraisal for the Decade Ahead," by William M. Carpenter and Stephen P. Gibert, from Issues & Studies, vol. XVII, No. 12, December 1981 280
"Divided China: the View from Taipei," by James C. Y. Soong, from International Security Review, vol. VII, No. II, Summer 1982 301

TAIWAN COMMUNIQUE AND SEPARATION OF POWERS

FRIDAY, SEPTEMBER 17, 1982

U.S. Senate,
Subcommittee on Separation of Powers,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, pursuant to notice, at 10:15 a.m., in room 5110 Dirksen Senate Office Building, Hon. John P. East (chairman of the subcommittee) presiding.

Staff present: James McClellan, chief counsel and staff director; William Miller and James Sullivan, counsels; and Debra Freshwater, chief clerk.

OPENING STATEMENT OF SENATOR JOHN P. EAST

Senator East. I would like to call this hearing of the Subcommittee on Separation of Powers of the Judiciary Committee to order and welcome you this morning.

I appreciate all of you coming and allowing us to begin this dialogue between the Congress and the executive branch on the apparent conflicts between a recent communique issued by this administration and the Taiwan Relations Act.

I would like, before commencing and getting to our witnesses, to enter several matters into the record. First is a statement from our distinguished colleague, Senator Barry Goldwater. I would like that to be made a permanent part of the record, and hearing no objections, we shall do so.

I also have a statement of Representative Gerald Solomon of the House of Representatives, who is unable to be here this morning but is tremendously interested in this subject. I would like to enter into the record his statement.

And also, from this morning's Washington Times, I would like to enter in a statement by our distinguished colleague from Wisconsin, Senator Robert Kasten.

[The statements of Senators Goldwater and Kasten and Representative Solomon follow:]

Prepared Statement of Senator Barry Goldwater

Mr. Chairman, I appreciate your invitation to appear before the Subcommittee, and I commend you for addressing the procedure for law making and termination. The fact that it is necessary to hold such a hearing is a shocking commentary on just how far the nation has moved away from the basic principles of the Constitution given to us by the original Framers.

CONSTITUTIONAL ROLE OF LEGISLATURE

We are discussing a principle that every school child was once taught: The Legislative Branch must participate in making, amending, or repealing a law. The only exception is that the Supreme Court may declare an invalid law to be unconstitutional.

Former President Carter broke this tradition in 1978, when he unilaterally abrogated the Mutual Defense Treaty with Taiwan. Now, we are confronted with a joint communique that, on its face, attempts to supersede a valid statute, the Taiwan Relations Act.

In both instances, I put the blame for violations of constitutional principle on the permanent bureaucracy at the State Department. The professional bureaucrats, who carry over from one Administration to the next, have in mind a single goal, and that is to absorb all power into their hands.

Their effort is made easier because Congress has too often remained silent in the face of executive power-grabbing and failed to assert its proper constitutional role in making fundamental policy decisions that constitute the law of the land. Either for partisan political reasons or lack of attention, we have allowed executive power to increase at the expense of our rightful legislative functions.

The two Houses of Congress, and the Senate itself, were not given specified authorities by the Framers simply as a convenience or a whim. The Framers expected us to exercise these authorities in a responsible manner. Under the scheme of government they set up, it is our duty, and not merely our pleasure, to participate in making, amending, or repealing the law of the land.

SEPARATION OF POWERS

The Framers also intended that the Legislative Branch would be an integral part of their system for maintaining the separation of powers doctrine. Put simply, this means the President must not invade legislative functions, and Congress must not usurp executive powers.

The purpose was explained by James Madison, who wrote in The Federalist No. 47, that the "accumulation of all powers, legislative, executive, and judiciary, in the same hands . . . may justly be pronounced the very definition of tyranny."

In order to know when one branch is encroaching on the other, however, we must know what classes of power are "legislative" and which are "executive."

Charles Warren, one of the century's great scholars of the Constitution, concluded that the best example of what the Framers deemed executive power to consist of is that given by Thomas Jefferson in his "Draft of a Fundamental Constitution for the Commonwealth of Virginia" in 1783. C. Warren, "The Making of the Constitution," 526 (1937).

In this draft, Jefferson repudiates the idea that executive powers in America meant the same thing as the king's powers in England. He writes that:

"By Executive powers, we mean no reference to those powers exercised under our former Government by the Crown as of its prerogative, nor that these shall be the standard of what may or may not be deemed the rightful powers of the (Executive). We give them these powers only, which are necessary to execute the laws (and administer the government), and which are not in their nature either legislative or judiciary." Reprinted in Warren, ed., at 526.

The significance of Jefferson's concept is that America rejected the monarchical definition of executive power and substituted for it a new, republican distribution of powers, in which the executive is limited in the extent and duration of its power.[1]

THE FRAMERS ALLOTTED DIFFERENT FUNCTIONS ON THE SAME SUBJECT

This does not mean that the legislative and executive departments are totally separate and distinct from each other. Each department may exercise a different function over the same subject according to whether the Framers believed the matter called for legislative deliberation, executive action or judicial consideration.[2]

Madison explained the principle at the Constitutional Convention as follows:

---

[1] Similarly, James Wilson declared at the Constitutional Convention that he "did not consider the Prerogatives of the British Monarch as a proper guide in defining the Executive powers." 1 "The Records of the Federal Convention of 1787," at 65-66 (M. Farrand ed. 1937).

[2] James Wilson said in the Constitutional Convention: "The separation of the departments does not require that they should have separate objects but that they should act separately tho' on the same objects." 2 Records, id., at 78.

"If a Constitutional discrimination of the departments on paper were a sufficient security to each against encroachments of the others, all further provisions would indeed be superfluous. But experience had taught us a distrust of that security; and that it is necessary to introduce such a balance of powers and interests as will guarantee the provisions on paper. Instead therefore of contenting ourselves with laying down the Theory in the Constitution that each department ought to be separate and distinct, it was proposed to add a defensive power to each which should maintain the Theory in practice. In so doing we did not blend the departments together. We erected effectual barriers for keeping them separate." 2 Records, supra, at 77.

Thus, law making and law termination are not single acts. They are a complex sequence of acts and there is a different allocation of functions under each sequence.

For example, the President may "propose" a law, but Congress "makes" the law. The Senate may give its "advice and consent" to ratification of a treaty, but the Executive communicates formal notice of ratification to foreign states.

Once we recognize that the Framers allotted powers on the same subject to different departments, we can understand the importance of the fact that the Constitution specifically confers a role in foreign affairs to the legislature. The President makes treaties and appoints ambassadors, but by and with the advice and consent of the Senate. The Congress regulates commerce with foreign nations, declares war and defines offenses against the law of nations. This means the President has no claim to absolute powers in the field of foreign affairs and cannot override a statute even if it conflicts with his foreign policy.

STATUTES AND TREATIES ARE BOTH LEGISLATIVE ACTS

It is also important to note that the Founding Fathers viewed both statutes and treaties as legislative acts. For example, Alexander Hamilton wrote in The Federalist No. 75 that the treaty power "will be found to partake more of the legislative than of the executive character." In the same paper, Hamilton wrote that the full treaty power had not been committed to the President because "it would be utterly unsafe and improper to intrust that power to an elective magistrate of four year's duration." He added "that the joint possession of the power in question, by the President and Senate, would afford a greater prospect of security than the separate possession of it by either of them."

At the Pennsylvania ratifying convention, James Wilson, one of the leading Framers, said: "Neither the President nor the Senate solely can complete a treaty; they are checks upon each other, and are so balanced as to produce security to the people." 3 Records, supra, at 166.

One of the great constitutional scholars of all time, Supreme Court Justice Joseph Story, wrote in a similar vein. In his famous "Commentaries on the Constitution," Story stated it "is too much to expect that a free people would confide to a single magistrate, however, respectable, the sole authority to act conclusively, as well as exclusively, upon the subject of treaties." He explained that by making what is done by the President only "preliminary" and requiring "the assent of other independent minds to give the President's action a legal conclusiveness," the Framers had imposed a check "which awakens caution, and compels to deliberation." Commentaries, id., at 359 (1833).

These discussions of the treaty power apply with equal or greater force to statutes. The Framers deliberately involved the Legislative Branch in the process of making, amending, and repealing both statutes and treaties because it would "add to the safety of the society." The general public would enjoy additional security by requiring the concurrence of the legislative body in developing the fundamental policy of the nation.

REPEAL OF THE LAW

This brings us to one of the interesting features of the Constitution, its silence on the specific procedure for terminating statutes or treaties. This silence is not surprising because, in the words of historian Arthur Bestor, the principle concern of the Framers "was the proper allocation of the various positive powers of government." A. Bestor, Respective Roles of the Senate and President in the Making and Abrogating of Treaties, The Original Intent of the Framers of the Constitution Historically Examined, 55 Wash.L.Rev. 1,17 (1979).

In the absence of specific constitutional instruction about termination, reversal by those branches who participated in the adopting process is the logical procedure of repeal. Professor Bestor believes this principle was so firmly established in English law, that it was adopted in America without question. Bestor, id., at p. 20.

For example, William Blackstone's famous "Commentaries on the Laws of England," which was widely circulated in America at the time of our Constitutional Convention, emphasizes the maxim "that it required the same strength to dissolve as to create an obligation." W. Blackstone, 1 Commentaries, 160-161, 185-186 (4th ed., 1770).

The strength of the principle that statutes and treaties are binding on the President and cannot be amended or repealed without some form of legislative approval is also derived from Article II, section 3, of the Constitution, which provides that the President shall "take care that the laws be faithfully executed." Obviously, this provision requires the President to uphold the laws, not to unilaterally abrogate or supersede them.

CONFLICT BETWEEN JOINT COMMUNIQUE AND TAIWAN RELATIONS ACT

Applying these principles to the specific subject before the Subcommittee, we see that the Executive Branch by itself lacks any power to amend or replace the Taiwan Relations Act. The President cannot make unilateral pronouncements that prevent implementation of the Act. The President cannot enter into an agreement with a foreign country substituting different commitments than are provided for in that Act. In any area where the joint communique may conflict with the Taiwan Relations Act, the Act prevails.

Now we reach the question as to whether there is any conflict between the Act and the joint communique. I think there is.

There is nothing in the Act that says arms sales to Taiwan shall be steadily reduced in quality or quantity until the sales disappear. Yet the communique states that the United States "intends to reduce gradually its sale of arms to Taiwan." It also declares that United States arms sales "will not exceed in qualitative or quantitative terms the level of those supplied in recent years."

This violates the provisions of section 3 of the Act, which provides that "the United States *will* make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." Emphasis added.

Moreover, section 3 provides that both the President and Congress together "shall determine the nature and quantity" of defense sales based solely upon "their" judgment of Taiwan's needs. In contrast, the communique indicates that the President alone shall make that judgment.

Also, I am concerned that the communique raises a question of sovereignty. The United States has never recognized political sovereignty by Communist China over the authorities and people on Taiwan.

In fact, the term "Taiwan" is defined by section 15 of the Taiwan Relations Act to include not just the people living on Taiwan, but specifically, "the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979." In this provision, the Act clearly recognizes that political sovereignty over Taiwan is possessed by the governing authorities we had formerly recognized as the Republic of China.

From this, it is clear that any interpretation of the communique that may imply Chinese communist sovereignty of Taiwan is in conflict with the Act. Unfortunately, the communique is not clear on this point. For example, point 5 of the communique states that the United States "has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs . . ." In the immediately preceding point 4 of the communique, Red China "reiterates that the question of Taiwan is China's internal affair." The juxtaposition of the two points creates an impression the matter is within the sovereignty of the communist regime.

Also, we should look at point 1 of the communique in which the United States acknowledges "the Chinese position that there is but one China and Taiwan is part of China." In contrast, the Shanghai Communique of 1972 had acknowledged "that all Chinese on either side of the Taiwan Strait" maintain that position. The reference to "Chinese on either side of the Taiwan Strait" is missing from the recent communique, as it was in the 1978 communique of former President Carter. This indicates that the United States acknowledges only the position held by Red China and disregards the position of the authorities on Taiwan.

The communique of 1982 is filled with double talk and ambiguities of this kind, but we should make it clear at these hearings that nothing in the communique can or does supersede the position taken in the Taiwan Relations Act.

Communist China has never held any effective control over Taiwan. The only national government with sovereignty on Taiwan is the Republic of China, which continues to enjoy diplomatic recognition by 22 countries.

RECOMMENDED CONGRESSIONAL ACTION

Mr. Chairman, I introduced an amendment to the Debt Ceiling Increase bill that would reaffirm the basic constitutional principles discussed. My amendment, Number 2036, is a straightforward declaration by the Senate that "no statute or treaty shall be made, amended, or terminated without Senate approval." I believe that passage of that expression by the Senate as an amendment or a separate resolution, together with the hearings by your Subcommittee, will be the start of a long overdue decision by the Senate to reclaim its law making powers.

The joint communique is a symptom, not the problem. I hope your Subcommittee will address the long range, constitutional issue of maintaining the separation of powers, not only in the foreign affairs field, but the domestic area as well.[3]

[From the Washington Times, Sept. 17, 1982]

From the Hill

(By Robert Kasten)

Last month, after almost a year of what the State Department likes to call "hard bargaining," the United States and the People's Republic of China issued a joint communique outlining principles for future relations between the two countries. The question now is whether, after months of intensive negotiation, the U.S. is better off than it was before. The unfortunate, but inescapable, answer to that question is "no." Once again, we managed to give away a great deal while receiving little or nothing in return.

Let's look at the results. First, what did the Chinese achieve? Their objective has always been acknowledgement of the People's Republic of China's sovereignty over Taiwan and a cut-off of U.S. arms sales to that country. This would leave Taiwan unable to defend itself and, eventually, force it into reunification with the mainland, under terms dictated by the mainland. Even the Carter administration refused to go that far and left the question of arms sales unresolved. In effect, we agreed to disagree.

Congress, knowing the issue would re-emerge, reinforced the United States' long-term commitment to Taiwan's continued independence by passing the Taiwan Relations Act, which requires the United States to provide Taiwan with the arms necessary for its self-defense, and states that the president and Congress "shall determine the nature and quantity" of those arms "based solely upon their judgment of the needs of Taiwan." In other words, this is not a subject for negotiation with the People's Republic.

But negotiate we did. Only three years after the 1979 communique establishing diplomatic relations, the Chinese again raised the question of arms sales. In fact, they threatened to downgrade relations with the U.S. if the question was not resolved. They threatened—and we raced to the negotiation table, ultimatly agreeing to language that takes the Chinese at least half-way toward their goal of an arms cut-off to Taiwan. We agreed that the U.S. would not pursue a long-term policy of selling arms to Taiwan, that we will limit the quality and quantity of arms to those sold in recent years, and that we will gradually reduce the amount of arms sold "leading over time to final resolution." This language clearly violates the spirit, if not the letter, of the Taiwan Relations Act.

I do not question for one minute President Reagan's personal commitment to the continued independence of the people on Tiawan. That has never been at issue. I am deeply concerned, however that this communique could be misused by a future administration which does not share that commitment. The language in the document could easily be used as an excuse for capitulating to China's demand that U.S. arms sales to Taiwan cease.

---

[3] When President Carter dumped the Mutual Defense Treaty with Taiwan, I challenged his action in the courts. After the lower courts split on the issue of the President's authority to abrogate a treaty without any legislative approval, the Supreme Court granted certiorari but dismissed the suit. The High Court ducked the Constitutional question. The Chief Justice and three Justices held the case presented a political question and found that the legislature has resources available to protect and assert its interests; one Justice said individual Senators lacked standing; one Justice concurred in the result without comment; two Justices wanted the case set for oral argument; and only one Justice supported the President's claim of power. *Goldwater* v. *Carter,* 444 U.S. 996 (1979); 617 F.2d 697 (D.C. Cir. 1979); 481 F. Supp. 949 (D.C.D.C. 1979). The failure of the Judicial Branch to reach the constitutional issue makes it obligatory on the part of Congress to act in defense of its powers or see our powers effectively lost by default.

PREPARED STATEMENT OF CONGRESSMAN GERALD B. SOLOMON

Mr. Chairman and members of the committee; thank you for allowing me the opportunity to testify before you today on the joint communique between the United States and the People's Republic of China.

I am pleased the Subcommittee on Separation of Powers is conducting hearings on the communique because, clearly the executive branch of the Government has overstepped its policy jurisdiction. The joint communique represents an executive branch action which directly contradicts U.S. policy established by the legislative branch of the United States Government.

Mr. Chairman, the joint communique is without question in violation of the Taiwan Relations Act. The communique states that the United States Government does not seek to carry out a long-term policy of arms sales to Taiwan and that it intends to reduce gradually its sales of arms to Taiwan. The measure is in direct violation of section 3 of the Taiwan Relations Act. Subsection 3(A) of the act reads, "The United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." Limiting future sales of military hardware to Taiwan is contrary to our commitment to maintain a sufficient military capability.

Mr. Chairman, I would like to expound briefly on the military needs of Taiwan. The United States must continue to assure that the military balance in the Taiwan Straits is maintained, while at the same time, strengthening the stability on Taiwan by reaffirming U.S. military support for the Government and the people of Taiwan. Only by continuing our support of Taiwan through the sale of fighters and other military equipment can Taiwan be guaranteed to keep pace with anticipated advances in PRC fighter aircraft development over the next decade.

If a conflict were to break out in the region, the PRC could muster a sizable portion of its 5,000 plane airforce to use against Taiwan's airforce of 180 aircraft. Additionally, the PRC, not Taiwan, has the capability to increase production and improve upon their combat aircraft. It is vital to Taiwan's security that they continue, and I emphasize the word continue, to purchase more advanced fighters—technically superior to PRC aircraft.

Mr. Chairman, section six of the communique states that the United States Government does not seek to carry out a long-termn policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution.

Mr. Chairman, the legislative branch of the United States Government has established a firm policy of making available defense articles necessary to enable Taiwan to maintain a sufficient self-defense capability. Yet, the executive branch issued a communique which, in section six, States that the United States Government intends to reduce its sales of arms to Taiwan.

It is also important to note that the legislative branch was not consulted as prescribed under the law. Section 3, subsection C of the Taiwan Relations Act states that the President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgement of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendations to the President and the Congress.

This subsection of the act mandates that Congress be consulted, yet, I am not aware of any efforts to even make the Congress aware of the joint communique until after it was issued.

Mr. Chairman, the day the communique was issued I met with the President and relayed to him all of the concerns I have outlined today. At that time, the President seemed to be under the impression that the communique was sent up to the White House from a lower level of the State Department. I recommend we send a strong message to the White House that the joint communique should be sent back down to the bowels of the State Department!

The contest of the communique between the United States and the people's Republic of China constitutes a radical departure from existing laws governing United States/Taiwan relations.

Mr. Chairman, I sincerely hope that your committee on separation of powers concludes that a clear conflict of policy exists between the legislative and executive branch with respect to the joint communique, and reaffirms the commitment of the United States Congress to the intent of the Taiwan Relations Act.

Senator **East**. We are particularly fortunate this morning to have two distinguished Members of this body, one a former member and one a current Member, as witnesses.

We are fortunate to have former Senator Richard Stone of Florida with us this morning and look forward to getting his testimony.

And, of course, it is always a pleasure to have my able and talented colleague from Idaho, Senator Steve Symms with us.

I believe that as chairman of this subcommittee I need to put this matter in perspective as I see it and understand it.

I would like to indicate that we have invited other witnesses to appear; in particular, have asked the State Department and the Defense Department to provide witnesses. The State Department has indicated they would be able to do so on September 27. We look forward to receiving their testimony at that time. The Justice Department also indicated they would send a witness to testify on that date.

The Defense Department, in a letter from Mr. Frank Carlucci, Deputy Secretary of Defense, has indicated that they do not believe it would be appropriate to testify. They believe it is more appropriate for the State Department and Justice Department to appear. We regret that we are not able to get their perspective before us this morning.

I want to assure everyone that we in this subcommittee are anxious to get all of the relevant perspectives before us, and these hearings will be so conducted that they can be balanced, fair, and open. On the 27th we will have the opportunity to get the administration's point of view. I regret they could not provide someone this morning, but perhaps they have their good reasons for that. If they did not, then we would certainly have a serious problem of separation of power—namely, the inability of Senate committees and the administration to communicate on important matters. Perhaps they are anxious to see what transpires this morning.

THE SEPARATION OF POWER PROBLEM

I will concede that in my judgment there is a serious problem of separation of power here, or I would not be calling these hearings. In my assessment any fair interpretations of the recent communique and the Taiwan Relations Act appear to be in conflict, very serious conflict. It is appropriate that we attempt to determine whether the conflict is more apparent than real, and if it is real, where we proceed from here.

We have been advised in a letter to us by Mr. Powell Moore, who is the State Department representative to the Congress, a very able and respected man, I might note, that the State Department does not see a conflict, that they merely see the communique as a statement of a policy of the President.

I am advised in the letter from Mr. Moore that the status of the communique under U.S. law is that of a statement of a policy of the President which they believe he is in a position to make at any time or place.

I will not read the entire letter. It is three pages long. I would like simply to quote a portion here. "In conclusion, we believe that the issuance of the joint communique was within the traditional power of the President to announce the Executive's policy," which, of course, in and of itself, is simply to state the obvious.

With all due respect to Mr. Moore, my judgment would be that when a statement of Presidential policy, which means a statement of the executive branch, is clearly in conflict with an act of Congress, Presidential policy must give way. This act of Congress, the Taiwan Relations Act, was enacted in the context of a general overall package with the executive branch back in 1979. The Carter administration broke diplomatic relations and broke the mutual defense treaty, and Congress, in their consternation about that, not wanting to be merely in on the crash landing but wanting to be in on the takeoff in some way or another, passed the Taiwan Relations Act to make it clear that this Government as a matter of policy was going to guarantee a level of armament to Taiwan, independent of any other consideration that would affect Taiwan's defense.

Any fair reading of the Taiwan Relations Act reveals that that is exactly what it says. That is the agreement. That is the express policy wish of the Congress. What the executive branch did at that time was done as part of that overall package.

Now we see the executive branch staking out a new course, diverging from that general overall agreement, and the new course suggests that there shall be a movement downward of our commitment, that quantitatively and qualitatively arms sales shall not exceed current levels, that we should anticipate a downward spiral leading to final termination or "final resolution," as the communique says, and that the trajectory of the level of arms sales will be determined by the conduct of the so-called People's Republic of China.

Now that is not what the Taiwan Relations Act says. There is a conflict. As a Member of the Senate and Congress, I am very sensitive to areas of jurisdiction, and I certainly understand that the Senate Foreign Relations Committee, with its very respected and distinguished chairman, Senator Percy of Illinois, would obviously have broad policy concerns here. But not infrequently we have matters that cut across jurisdictional lines. This communique does raise a problem of separation of power, because Congress has already expressed a policy direction and concern along with the Executive in 1979, and now clearly there is a divergence.

That is the nub, the essence, of our problem. Not only do you have, as I would assess this, a very specific concrete problem of separation of power in that the communique and the act diverge but Congress, as a matter of separation of power, ought to be interested in the broader policy implications of this over the long term. There is nothing wrong with our doing that.

TROUBLESOME POLICY IMPLICATIONS

Too frequently in the past the Congress has seen the executive branch launch off on some foreign policy venture. We are not allowed in on the takeoff; but come the crash landing, we are asked to try to do something, to provide appropriations, or to do this or do that. Regarding arms sales to Taiwan, I think as a matter of separation of power and policy direction, we are entitled to be a part of this new direction from the beginning, for it clearly is a new direction.

The thing I found troublesome in Mr. Moore's letter is that it does not appear that the problem is exclusively one of entrenched State Department confusion, but that the communique is in fact a statement of the President of the United States, President Reagan. I find that particularly troublesome. I would not have thought that Ronald Reagan, a man for whom I have the greatest respect, would himself say so candidly and pointedly, "This is where we are going, a final resolution of arms sales, et cetera." That is a major policy premise and it comes from the highest quarter of the executive branch. It is a matter of separation of power and a matter of policy formulation. I think Congress ought to be deeply concerned.

What does this mean in terms of our foreign policy in general? How will the world, friend and foe, respond to our treatment of Taiwan in this way? Domestically, what are the implications of it? We in North Carolina are concerned that we not be made a victim of this new policy course by becoming a dumping ground for Red Chinese textiles and apparel and tobacco, for example. The new communique talks about very broad exchanges—cultural, economic, ad infinitum—clearly a new era, and it strikes me that what they are saying in effect, is that all this will take place, the Taiwan Relations Act to the contrary notwithstanding.

This may not be of great significance to much of the national media. I do not know. That is their prerogative. But as one Senator I find it is profoundly disconcerting. There are many distinguished members of this Senate and this Congress that feel the same way. I have already indicated Senator Goldwater, Senator Symms, and Senator Kasten. I might also note that Senator John Glenn, a very distinguished member of the Democratic Party, is deeply interested in this. The concern transcends party lines.

It is fair that we, the Congress, as a matter of the constitutional separation of power be brought into this policy development. Again, acknowledging the great jurisdiction of the Foreign Relations Committee to evaluate this new policy direction, the evaluation of this subcommittee is also proper. I have an uneasy feeling, as a matter of separation of power, that Congress has not been included, and that we are not being included. We are being finessed. Maybe that states it too harshly. I hope it does. If so, I shall happily correct the record at the close of these hearings. But I operate on the premise that words mean what they say.

Again, I recommend to you, take the Taiwan Relations Act and carefully read it. Then read the recent communique representing the new policy direction of the President of the United States, and you will find that the only thing you can fairly tease out of it is that the two are in conflict. Where does that leave us as a matter of general policy course, and also where does it leave us as a matter of separation of power?

Perhaps I have broken my own ground rules and gone on longer than is necessary, but I thought it imperative that at least you understand from whence I, the chairman of the subcommittee, am coming and what it is I hope to do. I want to do it in a spirit of openness and balance, candor and civility. I am certainly not here to embarrass anybody—to embarrass the President or to embarrass the Administration. I am simply here to explore constitutional and policy implications of a very substantial change that apparently is taking place in American foreign policy. The concern in Congress runs deeper than the surface motion would indicate, and I hope, if nothing else, we can awaken the executive branch to the underlying reality that our concern is ignored at their peril in the sense that we need to keep a good dialog going as a matter of separation of power between the executive branch and the fundamental policymaking branch of the American National Government, the U.S. Congress. That is separation of power in its fundamental and generic sense.

INTRODUCTION OF FIRST PANEL

I would like to welcome the witnesses who have offered to come here and share with us their time and their talents. We shall be hearing two panels of witnesses today.

First, I would like to ask that Hon. Richard Stone, a former U.S. Senator and a very respected and distinguished member of this body who was, I might note, a key sponsor of the Taiwan Relations Act, come forward.

We are honored to have you with us this morning. I also would appreciate it if my distinguished colleague, Senator Steve Symms of Idaho, would come forward.

Gentlemen, if it is all right with you, we will begin by hearing from Senator Symms.

STATEMENTS OF HON. STEVEN D. SYMMS, A U.S. SENATOR FROM THE STATE OF IDAHO, AND HON. RICHARD STONE, FORMER U.S. SENATOR AND COSPONSOR OF THE TAIWAN RELATIONS ACT

Senator SYMMS. Mr. Chairman, if the Chairman and Senator Stone would oblige, I have another commitment so I would like to summarize my remarks very briefly. I am late for another commitment right now.

In response to your letter of September 14. I am happy to have the opportunity to be here, and I would like to ask unanimous consent to submit in its entirety an article. "Should America 'Kowtow' to Communist China?" that I did earlier, and also an OpEd piece for the New York Times, which was printed Friday, August 27, "Unfair to Taiwan" that I did. It was in the New York Times.

I ask unanimous consent that those be included as a part of my testimony, and then, very briefly, I will summarize my testimony.

Senator EAST. That would be fine.

Senator SYMMS. With the Chairman's permission, I would make a brief statement. I want to thank you for your interest in these hearings, not only in terms of the Taiwan Relations Act, but also other interests you have shown with respect to the SALT Treaties, and other separation of powers questions, and I compliment you for it, and your leadership on it.

Specifically, the Taiwan Relations Act of 1979 specifies the terms under which the United States will sell arms to Taiwan, the Republic of China. But paragraph 6 of the August 17, 1982 Joint United States-People's Republic of China Communique directly contradicts the Taiwan Relations Act provisions on arms to Taiwan. The central constitutional question is whether the law of the land, the Taiwan Relations Act, shall prevail over the joint communique.

VIEW ON ARMS SALES

It is my view that the President's policy on arms sales to Taiwan as expressed in the joint communique are not binding on the U.S. Government, because the President's arms sales policy contradicts the Taiwan Relations Act. President Reagan has insisted that he is faithfully complying with the Taiwan Relations Act, but his arms sale policy as expressed in the communique can be viewed as being beyond his constitutional power to fulfill.

In negotiating the text of the communique with the People's Republic of China, the United States tried very hard to achieve agreement to inclusion of explicit reference to the U.S.-P.R.C. "strategic relationship" in opposition to the Soviet threat to world peace. This U.S.-P.R.C. strategic relationship, the so-called China Card, is the main U.S. national security interest served by our recognition of the P.R.C. Yet the P.R.C. refused even to mention this relationship in the communique. I am still in favor of trying to maintain some sort of strategic collaboration with the P.R.C. However, the P.R.C.'s refusal to endorse this collaboration explicitly, was a setback for U.S. national security interests.

Moreover, to add insult to injury, immediately after the communique was released, the P.R.C. began harshly attacking the United States for allegedly being as great an enemy and threat to world peace as the Soviet Union.

In summation, Mr. Chairman, I believe that the communique clearly violates the law of the land, the Taiwan Relations Act. While I still believe that strategic collaboration with the P.R.C. is in the U.S. national security interest, this relationship must be consistent with U.S. law and with the fact that the United States is a superpower and the P.R.C. is not. America need not violate its own laws, appease the P.R.C., nor abrogate previous alliance commitments to Taiwan in order to cultivate P.R.C. help in preserving the world balance of power. The P.R.C. has its own reasons for opposing the Soviet threat to disrupt world peace, and the United States and the P.R.C. still have mutual interest in opposing the Soviet threat. But any U.S.-P.R.C. joint efforts to contain Soviet aggression will be ineffective unless America's friends and foes alike, respect the credibility of American foreign policy. Appeasing the P.R.C. by selling out Taiwan and accepting P.R.C. rejection of the strategic relationship and insults is almost as dangerous to U.S. national security as appeasing the Soviets in deténte and "arms control." The United States has achieved less than nothing with the communique. We received no quid pro quo for our appeasement of the P.R.C., and we have been humiliated before the world by P.R.C. insults. Again, the credibility of U.S. mutual defense commitments to our friends and allies is the ultimate deterrent against renewed world war. The P.R.C. has to realize that it has nothing to gain by continued humiliation of the United States because they are weakening the strongest partner in the coalition against the Soviets. The credibility of American commitments to preserve world peace must be maintained at all costs, and the P.R.C. must be made to realize this.

U.S. CREDIBILITY QUESTIONED

Thus, by weakening the credibility of U.S. foreign policy the communique was a setback to the security interests of both the United States and the P.R.C., and it should be negotiated to strengthen the strategic relationship and be consistent with U.S. law.

Mr. Chairman, in the article that I have submitted for the record. I made the point, in the New York Times, that the communique—not only does it violate the Taiwan Relations Act, but it gives the People's Republic of China no voice at all.

It strikes me, if I could find the place in the article where I made the point that—any way, what kind of ally can we be for the People's Republic of China, if we sell out and actually go into conflict with our laws of the United States?

I think, if I put myself in the shoes of the Communist Chinese, and reverse the roles at the table, one would only have to—you do not need to be an attorney to read this. You do not need to be a trained diplomat. There is a conflict in the language of the law of the United States, in the Taiwan Relations Act, that Senator Stone had a great deal to do with drafting when he was a member of the Senate, and he can speak to that with a great deal more expertise than I.

But you can read the two documents, and I would venture to say most high school English classes can read it and see there is a conflict in what they mean.

So I do not think it can be credible foreign policy of the United States, on the one hand, to have a law that clearly sets the standard for which, and when, and how and how much, and with what kind of quality and quantity of arms they will sell to free Chinese on Taiwan, and then turn around and read a communique that we signed with the Communist Chinese and see that there is a conflict. It is as though to say, well, we are going to sign this, but we do not mean it. I think it hurts our credibility enormously, and I compliment you for bringing this to the attention of the committee.

I think some remedies should be taken, and I would consider—and I ask unanimous consent to submit this as part of my testimony, and I will read this to the committee, and maybe as a result of these hearings you could come up with some kind of language.

My understanding is Senator Humphrey has been working on this, an amendment that might be passed by the Senate, that could read something like this:

> It is the sense of the Senate that, now withstanding the text of the Joint Communique of the United States of America and the People's Republic of China dated August 17, 1982, relations with Taiwan are governed exclusively by the Taiwan Relations Act, unless or until such Act is repealed or modified by a subsequent Act of Congress, and that insofar as the Communique attempts to state a policy regulating arms sales to Taiwan in conjunction with consultations with Communist China rather than with Congress, the same is invalid and is hereby denounced as an improper and unauthorized exercise of Executive power.

I certainly, as one member of the Senate, would support either this language or, if someone could come up with something that would do the same thing in a better fashion, I would perhaps support that.

I think we have a serious chink in our armor if we allow this to happen.

Mr. Chairman, I appreciate the opportunity to be here, and I ask your apologies. I noted that earlier Congressman Larry McDonald was here. I think he may have left to go back to the House side. He was here in the room, and would note that he has been a long supporter of the free people on Taiwan, and would note that for the record, and would certainly—I invited him to submit testimony for your hearings, if he could find time to do so.

I thank you very much.

Senator **EAST**. Thank you. I deeply appreciate you coming.

Senator Stone?

Mr. **STONE**. Thank you, Mr. Chairman.

I first want to thank the committee for the invitation to appear, and notice that when your representatives first invited me, I was a little bit reluctant to appear, because I have not, in the conduct of my private consultation and legal work, which includes consulting for the Board of Foreign Trade for the R.O.C., I have not done any lobbying. I do not want to do any lobbying, of any kind, whether informational or at Congress, but the committee invited me here to describe and to clarify, and to put in context the nature of the Taiwan Relations Act, and how it affects your jurisdictional interest of separation of powers, and in that sense only I agreed to come here, and I would be glad to proceed along those lines.

Mr. Chairman, the Taiwan Relations Act is not a luxury. It is a necessity. The committee report on the Taiwan Relations Act clarifies why this is a necessity, and I would like to read several paragraphs from our committee report, which reveal how absolutely necessary something like this had to be if the United States was not simply to cancel all of its relationships with Taiwan.

And I quote from page 41 of that report:

> The Committee doubts that the power to issue this directive—

and it is reporting a Presidential directive on the opposite page which I will comment about in a minute—

> * * * is within the authority conferred upon the President by the Constitution. While it is true that the President has some "Constitutional responsibility for the conduct of the foreign relations of the Nation"—

that is a quote from the Presidential directive—

> * * * it is not true that he possesses all powers granted by the Constitution to do so. His exclusive authority to recognize and negotiate with foreign governments has never been construed as having in any way narrowed or deepened the many powers of the Congress over foreign affairs matters, including the power to regulate commerce with foreign Nations, Article I, Section 8, Clause 3 of the Constitution; to spend for the general welfare, Article I, Section 8, Clause 1; and to control Federal expenditures, Article I, Section 9, Clause 7. It is these powers upon which many of the provisions of this bill are based, and it is the Committee's judgment that the enactment of these provisions is legally required, not simply politically desirable, but legally required, if the President is to be able to conduct the myriad of programs concerning Taiwan. The reason is that the statutes authorizing such programs invariably authorize the President to cary out those programs only with respect to foreign countries, Nations or States, and the President, on December 19, stated that as of January 1, 1979 "Taiwan will no longer be a Nation in the view of our own country." The Committee has adopted this bill on the premise that the issue of Taiwan's international legal status need not be addressed here inasmuch as Taiwan

can be treated as a country for domestic juridical purposes, whatever its international legal identity. However, the Committee does not believe that the Congress, in enacting the various program authorities applicable to foreign Nations, intended that the President be empowered to carry out those programs with respect to an entity that he did not view as a Nation. The question is, in sum, one of Congressional constitutional prerogatives. Can the President unilaterally redefine statutory terms and decree a statute to be applicable where he, by his own statements, has rendered inapplicable? The Committee does not believe so. Accordingly, the Committee has, on the motion of Senator Javits, stricken Section 304 as proposed by the Administration, and in lieu thereof, made retroactive the effective date of the Act to January 1, 1979. While the practical effect will be identical, the legality of the relations with Taiwan cannot be questioned. A retroactive effective date will make it clear that the Congress does not concur with the President's claim of power, and that his action does not serve as a precedent for abrogating to himself the authority to conduct programs which can be authorized only by statute.

PRESIDENT'S MEMORANDUM CITED

Yet even the President later than that referred to a declaration issued on September 30—issued an order by memorandum to all executive departments, and paragraph C of that order reads:

> In order to effectuate all the provisions of this memorandum, whenever any law, regulation or order of the United States refers to a foreign country, Nation, State, government or similar entity, departments and agencies shall construe those terms and apply those laws, regulations or orders, to include Taiwan.

So it is not a luxury, if we are, as the Taiwan Relations Act mandates, to continue all treaties and agreements in effect, other than the mutual defense treaties, and there are numerous treaties relating to fisheries, aviation, trade of all kinds, investments of all kinds, conduct of lawsuits of all kinds. Without this act no administration could extend those both obligations and privileges to an entity not viewed as a country.

So this act views Taiwan as a country, and clearly defines who the "people on Taiwan" referred to before are and since by the administration, both the present one and the previous one, really are, who "they" are. "They" are the authority recognized as the Republic of China, prior to January 1, 1979, and succeeding governments if any to succeed the Republic of China, which no government has done. It is therefore the Republic of China on Taiwan, which is the government and represents the people of Taiwan.

I recall very well, when faced with this dilemma in the committee markup, and we had expert witnesses from the State Department, helping us during markup, and not just during hearings, I recall saying to one of the experts from the State Department, well, now, who is it that the United States is going to continue to effectuate our treaties and obligations with? Do you propose that we do it with the zoning board of Taipei?

Obviously, we had to define who the people on Taiwan were, and the Congress did.

May I say also that the Taiwan Relations Act is not simply a congressional response to a difficult situation. The Taiwan Relations Act originally was introduced at the request of the administration, by the chairman of the Foreign Relations Committee, Mr. Church, and I have his introduction statement here, and I have the original bill here.

Our committee and this Congress then strengthened that bill by adding clarifying provisions and certain security provisions.

Now we are faced with a similar situation to that confronting the committee in its original report. Can the President, any President, either upgrade or downgrade his concept or the administration's concept of the plain meaning of a statute, which, may I say, the previous President concurred with and signed—not only signed off on it, he signed the bill into law. And obviously, under the Constitution, the statutory provisions must be faithfully upheld and enforced by the President and all of the administration. Otherwise we would not be a government of laws, but a government of men.

What is the plain meaning of the Taiwan Relations Act? It is not subject to question because it was thoroughly debated in committee and on the floor. The bill as originally submitted to us and introduced by Chairman Church had no provisions for the security and self defense of Taiwan. But the Congress, concurred on thereafter by the President, included the specific process and the specific yardstick by which we were going to express our continuing support for the independent judgment and viability of the people and their government on Taiwan, and that standard is quite specific.

We are to supply defense equipment and services to the people on Taiwan, as defined, and I have read the definition, "sufficient" for their self-defense. That term "sufficient" relates, obviously, not only to quantity but to quality. It relates to a sufficiency of supplies whereby they can defend themselves, and the joint decision process is to be done at least once a year, and as more often than that as is deemed necessary. The President submits his assessment to the Congress, and between the Congress and the President, provision is then made for a "sufficient" level of supplies.

This is not foreign aid, by the way. The R.O.C. on Taiwan buy their equipment. They buy their defense services, and they pay for it out of the more than $13 billion a year of annual trade with the United States. They are our 8th largest trading partner, in spite of the fact that they are only 19 million—a little less than 19 million in population.

In closing, I simply want to mention, with regard to the communique, that it can be viewed by this or future administrations as a wish or as a self-imposed obligation by an administration on an administration. If a wish, that can be deemed consistent with any act. We hope, we seek a peaceful resolution across the Taiwan Straits, we seek a reduction of arms, because we seek a reduction of the necessity for arms.

If this communique, as lawyers would describe it, is "precatory," as you can find in wills, for example, I hope that my kids work hard and well for themselves, and then they will have even a greater estate than I leave. That is precatory. If this is precatory, if it is wishful policy, then there can be no legal conflict.

If, on the other hand, these provisions are deemed mandatory on the administration in terms of how policy will be decided, and what the determinations will be in the future as to defense supplies, then you really do have quite a conflict with the provisions and the plain meaning of the law, unless you just flat want to cancel $13 billion worth of trade, and cut Taiwan loose, and create a probable military risk situation, rather than what we can have now, which is probable peaceful growth in that region of the world.

Thank you, Senator East.

STATEMENT OF HOPE OR A STATEMENT OF POLICY

Senator EAST. Thank you, Senator, for your very valuable comments.

On this latter point, which is a very good one—whether this is a statement of hope, or whether it is a very specific statement of policy course of the administration—if it is the latter, then you believe there are serious problems with separation of power. I do not wish to ask you to play the role of Solomon and define the motives and intents of others, but what would you say is the most reasonable conclusion, as you look at the whole?

You were a Member of the Congress back then, and you have followed this with great interest and concern. Forcing you a bit to the wall on it, what would you say?

Mr. STONE. I would personally need an additional interpretation. The interpretation that is left with us now is, on the one hand, the communique, and on the other hand, the President's own words in a statement issued on the same day, and I quote that statement:

> Arms sales will continue in accordance with the act, and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful.

Now, that reserves back to the administration an option, and the option is, look, fellows on the mainland, we have to live by the act, and the act requires we have to, once a year, say what they need on the island, and here is what they need.

On the other hand, the words of the communique, do not say that. They say that the arms supplies will be never greater in quantity or quality than what they have been. In effect, that says regardless of need they can't get more or better supplies and they say it will be reduced, and again that implies, at least implies, "regardless of need." And then they say "final resolution," that is, that supplies will be reduced to a final resolution.

Well, does reduced to a final resolution mean that we hope for a peaceful resolution, and therefore there will be no further need for supplies or does it mean that in spite of need there still will be a reduction? So the question is left to be clarified at least one more time, and I would hope at the Presidential level, since that is the level at which both his own statement and the communique was issued.

What is the administration's obligation to assess needs as opposed to all of these other provisions in his communique and statements?

If the President's obligation, as he feels it, and the administration's obligation, is to assess security needs on its own terms, considering everything that you wish to consider, then I think that the administration can live by the provisions of the Taiwan Relations Act.

But, you know, if you violate one essential provision of the law, you are weakening it strucutrally in the others because, after all, as Mexico has proved in the last 2 weeks, when confidence is shaken, then trade is shaken, and confidence in this Taiwan situation means: "Can these folks sufficiently defend themselves to be able to make an independent choice on whether or how they might negotiate if they choose to, or will they be compelled to bow and to negotiate under compulsion," which even in the President's statement, co-parallel with the communique, says we will not permit.

So I would hope, in answer to your tough question, that what we ought to have here, and what the Congress ought to get, is a further clarification, and I would hope that that be not simply by a statement, but by a Presidential memorandum, or order. After all, President Carter issued more than one statement, and he did at least one by memorandum order, to tell the agencies what their obligations were.

CONGRESSIONAL REMEDIES

Senator **East**. Then just this final observation.

We would like, as part of the fruit to come out of these hearings, to get an idea of some potential remedies. Senator Symms, for example, suggested a resolution the Senate might pass to clarify our standpoint.

Are you saying as a possible remedy, as a bare minimum, as a point of departure at least, we need additional clarification from the President, from the administration?

Mr. **Stone**. Mr. Chairman, I do not think the Congress needs to pass any further "senses of the Senate." We have expressed ourselves so clearly in the Taiwan Relations Act which is law that to repeat and repeat it ad infinitum means to weaken it. But what we ought to have in response to the congressional intent as expressed by law is what is the President's and the administration's assessment of their duties to provide a sufficient defense by supplying weapons and services to the R.O.C. on Taiwan? Is that provision still felt to be binding by and on the executive branch?

Now, in general, we have a statement, but if we could get a memorandum decision, such as President Carter issued at the time of the introduction—just before the introduction of the Taiwan Relations Act by Senator Church, or if we could get some Presidential clarification in an official way, rather than merely by some public statement, then I think you would be returning the administration to the faithful performance of the law, and again, I want to stress, it is not a luxury law that you can either give lip service to or not. Without this law you cannot conduct these relations, because of the diplomatic status that the administration, the previous one, has put us in. Only by this law could we continue this relationship.

CLARIFICATION BY THE ADMINISTRATION

Senator **East**. So you are saying you see no need for a sense of the Senate resolution, because it would be redundant. We would simply be saying that the law is the law. We ought to be spending our time in more valuable ways.

What you are saying is that since there is confusion and conflict, and since all of this is disconcerting, the way to get out from under the constitutional rubble is a fundamental, categorical statement from the administration, that in fact this is what they mean. After having read the statement, a reasonable mind would have to come to the conclusion that there is no desire here to undercut or erode away the Taiwan Relations Act.

Mr. Stone. Mr. Chairman, it is quite simple. If there is a conflict, it is not between the administration and the Congress. It is between the administration and the administration. On one day, one communique is issued, on the same day a Presidential statement is issued. The communique says black. The Presidential statement says white. Which is it? Instead of another statement, which would only confuse the situation, and then we would have three conflicting ambiguities, what we ought to have is an order of the President, in an official memorandum, or equivalent or appropriate form, in which the policy and procedure is expressed to the departments, not just to friends or the public.

Senator East. Not just a press release?

Mr. Stone. A direction to departments is what is needed as to what the Taiwan Relations Act requires regarding the provision of defense supplies and services and how we will make periodic assessments, based on their need, the actual security need, and that we will continue to do so. I think that is what is implied by the President's statement. But the opposite is implied by the communique. So what we need is a directive saying that statements of one kind or another are fine, but what we will do is live by the provisions of the law which require the following. I think that then clarifies it, because the Congress is served best not by again saying you know we really mean it, we do not have to say that anymore—it is the law. The point I am trying to make here is that there is far more in that law than simply the defense provision. There are hundreds of millions of dollars at stake, by investments by them here, and by us there, to say nothing of the geopolitical issues, issues that are strategic importance to us.

You have witnesses here eminently qualified to discuss that. But I think we don't need the Congress again saying we will obey the law, but we need the executive branch saying so in official form, and then the act will have fulfilled its purpose. I want to close by saying, this act has been a brilliant success. When the bill was introduced—I just want to read from the introduction statement of Senator Church.

"At that time Taiwan is our eighth leading trading partner," I am quoting, "with an annual bilateral trade of $7.2 billion." This year that trade is $13 billion plus.

So this peculiar, unique situation which we addressed in Congress, and at the request of the President, the product being the Taiwan Relations Act, works. Trade from $7 billion in 1979 to $13 billion in 1982 is not chopped liver, and to emasculate a fundamental part of the foundation on which the structure was painstakingly constructed would be a travesty when the law works as well. We do not have that many congressional laws that work that well. Here is one that does.

INTRODUCTION OF SECOND PANEL

Senator East. Senator, thank you very much. We appreciate your coming.

[Articles submitted by Senator Symms follow:]

PREPARED STATEMENT OF SENATOR STEVEN D. SYMMS

SHOULD AMERICA "KOWTOW" TO COMMUNIST CHINA

I am strongly in favor of maintaining strategic collaboration with the People's Republic of China, based upon the Realpolitik recognition of the need to oppose the dangerous threat of Soviet world domination. But America should not violate its own laws, sovereignty, and previous alliance commitments in order to cultivate Communist Chinese help in preserving the world balance of power. In order for joint efforts to contain Soviet aggression to be effective, America must be respected by friend and foe alike. Appeasing our Chinese friends by selling out Taiwan is almost as bad as appeasing the Soviets. The credibility of American foreign policy is the best deterrent against conflict, and American credibility must be preserved.

The Reagan administration has been quoted recently as saying that it firmly supports Taiwan and will obey the Taiwan Relations Act. It has also stated that the U.S. would accept no time period for termination of arms sales to Taiwan. The Taiwan Relations Act passed by Congress was signed into law by President Carter on April 10, 1979. This law dictates that it is the policy of the U.S. to provide Taiwan with the weapons "necessary to enable Taiwan to maintain a sufficient self-defense capability" and that the "President and Congress *alone* shall determine the nature and quantity of such defense articles based *solely* upon their judgement of the needs of Taiwan. . ." (Emphasis added.) Judge Clark reportedly said recently "We will go back to the ranch if we sell out Taiwan."

The joint communique of the U.S. and the People's Republic of China released on August 17, 1982 contains language which both directly contradicts the Taiwan Relations Act language above and sells out Taiwan. The communique states that the U.S. Government: "does *not* seek to carry out a long term-terms policy of arms sales to Taiwan. . . and that it intends to *reduce* gradually its sales of arms to Taiwan, leading over time to *a final resolution.* In so stating, *the U.S. acknowledges China's consistent position* regarding the thorough settlement of this issue." (Emphasis added.)

The joint communique goes on to state explicitly a point that clearly violates the Taiwan Relations Act: "In order to bring about. . . a final settlement of the question of U.S. arms sales to Taiwan. . . the *two Governments* will make every effort . . . conducive to . . . settlement of this issue." (Emphasis added.) But as noted above, the U.S. determination of the quantity and quality of arms sales to Taiwan are to be determined unilaterally by the U.S. Government, the President and Congress *alone*, and the U.S. judgement is to be made *solely* on the basis of Taiwan's need. President Reagan has rejected strong advice from the Congress on this issue. Moreover, nowhere in the Taiwan Relations Act does it say that the PRC is allowed any voice at all in an internal, U.S. decision regarding American policy toward Taiwan. But this is precisely what the joint communique states. The joint communique need simply to have avoided the above language, making it consistent with U.S. law.

Strangely, the joint communique also specifies in two places the principle of "non-interference in each other's internal affairs." Yet giving the PRC an explicit voice in determining U.S. arms policy toward Taiwan not only violates the Taiwan Relations Act, but also constitutes in fact interference in internal U.S. Affairs. Moreover, the PRC has also already gone so far to demand that the U.S. cancel or annul the Taiwan Relations Act. This is a further blatant case of attempted interference in U.S. internal affairs.

Fortunately, the joint communique itself provides a remedy for President Reagan's ill-advised sell-out of Taiwan in violation of U.S. law. The communique mentions the policy of "the United States Government." The U.S. Government includes the Congress. The president cannot set U.S. Government policy unilaterally. There are legislative measures already being planned which would require the President to rescind or modify the joint communique, because it violates U.S. law—the Taiwan Relations Act. Moreover, legal challenges to the joint communique by Congressmen and citizens are also possible through the judicial system another branch of the U.S. Government.

The joint communique does in fact constitute an American sellout of Taiwan. Yet the Reagan administration has contradictorily stated to Senators that the PRC will respect us more if they see that we keep our commitments. On August 17, the Communist Chinese stated officially in Peking that the communique constituted an American pledge to end arms sales to Taiwan. An official spokesman for the Republic of China agreed, stating that all allies of America should beware of American perfidy and reconsider their reliance on protection from America. Even the PRC should realize that if America is willing to violate its own law to sell out Taiwan, we are unreliable allies indeed.

In 1973, the U.S. sold Indochina down the river by imposing an unequal peace upon our South Vietnamese allies. Watergate so weakened the President and distracted Congress that it prevented America from attempting to enforce the unequal Paris "peace" accords by continuing sufficient military aid to Saigon, and the south tragically fell in April 1975. In 1977, the Carter administration almost left our South Korean allies in the lurch by planning the unilaterial withdrawal of American troops. Now the Reagan administration is violating American law in order to sellout Taiwan. Perhaps one reason for Israel's increasing unilateralism is their lack of trust in U.S. support.

In its 1930 Republican Party platform, President Reagan committed himself to this policy:

"We declare that the Republican administration in strengthening relations with Taiwan, . . . will give priority consideration to Taiwan's defense requirements."

Yet since 1980, the Reagan administration has greatly cut back U.S. arms sales to Taiwan to levels even below those under Carter, has canceled the sale of the advanced FX fighter, and has allowed the PRC to interfere directly in U.S. policymaking on this issue.

Already we have witnessed Reagan flip-flop on taxes. I have opposed the Reagan administration reversals on strategic and arms control policies. The Reagan administration has acted in ways which almost completely contradict its 1980 platform promises on strategic programs and arms control. Most fundamentally, instead of withdrawing the "fatally flawed" SALT II Treaty from the U.S. Senate and acting quickly to build a "margin of safety" and close the "window of vulnerability," the Reagan administration has illegally unilaterally complied with the SALT II treaty, has reduced existing and planned U.S. strategic forces significantly without affirmative legislation, and has opened wider the window of vulnerability by delaying and cutting strategic modernization programs.

The fundamental U.S. benefit gained from first rapproachment with and then recognition of the PRC was supposed to be a strengthening of the forces opposed to the relentless Soviet advance worldwide. The U.S. has in fact gained precious little as yet in the way of tangible actions by the PRC to thwart Soviet aggression. If the Reagan administration is willing to unnecessarily violate its own laws to comply with an unratified SALT II Treaty and to sell out Taiwan, we must be inspiring mirth rather than fear in the Kremlin. Who could blame the Taiwanese for renouncing American arms sales in desperation and instead seeking self destructive succor from the Soviets? This could be an ironic result of a U.S.-PRC relationship designed to contain the Soviets.

[From The New York Times, Aug. 27, 1981]

UNFAIR TO TAIWAN

(By Steve Symms)

WASHINGTON—The joint communiqué between the United States and the People's Republic of China that places new limits on United States arms sales to Taiwan is very disturbing.

Although it may not represent a total sellout of Taiwan—I can't really believe that President Reagan would do that—it is a very dangerous step in that direction.

At best the communiqué, which was made public on Aug. 17, weakens the United States' commitment to an old and faithful ally; at worst, it may be used by a future President—or the State Department—to cut all of our remaining ties to the free Chinese on Taiwan, leaving them to the not-so-tender mercy of the Chinese Communists on the mainland.

I strongly favor maintaining friendly relations—and strategic collaboration—with the People's Republic of China. But this country must not do so at the expense of our other commitments and our own credibility.

It is neither right nor necessary to violate our own laws and go back on our promises in order to cultivate the friendship of the Chinese Communists. The credibility of United States foreign policy is the best deterrent to conflict. If we lose it, we lose the respect of friend and foe alike.

Surely the Communist People's Republic of China must realize that if the United States is willing to break its commitments to friends in violation of its own laws, we may be unrealiable allies in the future.

The language of the new China communiqué clearly contradicts both the letter and spirit of the Taiwan Relations Act, passed by Congress and signed into law by former President Carter on April 10, 1979.

Although I do not believe President Reagan is trying to "sell out" Taiwan, this communiqué certainly paves the way for that to happen in the future. To prevent that, I hope Congress will promptly reaffirm the Taiwan Relations Act as the law of the land, making certain that it supersedes any communiqués or other agreements.

Haven't we learned by now, that peace and friendship cannot be bought by the betrayal of allies or commitments?

In 1973, the United States imposed an unequal peace on our allies in South Vietnam, and Watergate so weakened the President and distracted Congress that the United States was prevented from enforcing that peace with sufficient military aid to South Vietnam. In 1977, the Carter Administration almost left our South Korean allies in the lurch by planning the unilateral withdrawal of American troops.

Perhaps one major reason for Israel's increasing unilateralism is that recent history suggests that United States commitments are not always credible and that it is risky to count on our support.

If that lesson is hammered home again in Taiwan, how many other friends and allies will also decide to go it alone?

How long can freedom survive if the leader of the free world cannot be reliable?

Senator EAST. Time moves on. We would like now to ask the members of the panel if they would please please come forward; Dr. Ray Cline, Professor Leonard Unger, Professor James Gregor, and Professor Harold Hinton.

I would like briefly to note who these distinguished gentlemen are. Dr. Cline is Senior Associate at the Georgetown Center for Strategic and International Studies here in Washington, D. C. Professor Unger is former Ambassador to the Republic of China on Taiwan and is now at the Fletcher School of Law and Diplomacy, Tufts University.

Professor James Gregor is from the Institute of International Studies at the University of California at Berkeley and appeared on the McNeil-Lehrer show last night.

And finally, Professor Harold Hinton is from George Washington University here in the Nation's Capital.

Gentlemen, I wish to welcome you all. You are all distinguished and highly qualified. I thank you for coming and giving us your time and the thoughts on this matter.

Dr. Cline, we would appreciate you leading us off, and then Professor Unger, Professor Gregor, and Professor Hinton.

STATEMENTS OF DR. RAY S. CLINE, SENIOR ASSOCIATE, GEORGETOWN CENTER FOR STRATEGIC AND INTERNATIONAL STUDIES, WASHINGTON, D.C.; AMBASSADOR LEONARD UNGER, FORMER AMBASSADOR TO THE REPUBLIC OF CHINA ON TAIWAN, FLETCHER SCHOOL OF LAW AND DIPLOMACY, TUFTS UNIVERSITY, MEDFORD, MASS.; PROF. A. JAMES GREGOR, INSTITUTE OF INTERNATIONAL STUDIES, UNIVERSITY OF CALIFORNIA AT BERKELEY; AND PROF. HAROLD HINTON, GEORGE WASHINGTON UNIVERSITY, WASHINGTON, D.C.

Dr. CLINE. I guess I get priority by alphabetical order.

I want to commend you for the broad gauge and statesmanlike approach you are taking to this hearing and this issue. I am especially happy that former Senator Stone was here to explain the Taiwan Relations Act provisions, because I consider it to be one of the most creative pieces of legislation that I have observed to come out of a very complex issue under study by the Congress, and as he said, to work very well in the interests of the United States.

It is also clear, as Senator Stone suggested, that we have to unravel not two points of view, but three. The personal statements of President Reagan, which I believe are sincere and honorable and heartfelt, and in conformity with the clear meaning of the Taiwan Relations Act, which he says he will carry out; the Taiwan Relations Act itself; and a different set of language released in the joint communique of August 17, 1982. It is full of diplomatic double talk, fuzz words and I think cynical ambiguities.

We have to resolve those differences, and I think the Congress has a heavy responsibility placed on it in the several committees which have jurisdiction over these matters to clarify the international commitments of the United States in a way that upholds not only the constitutional and legal system of this country, but American integrity and credibility in foreign affairs. I think they are at risk because of the loose language in the Joint Communique of August 17, 1982.

Let me, since you agreed our written statement will appear in the record, make only some general remarks.

JOINT COMMUNIQUE OF AUGUST 17, 1982

It is, in my view, a remarkably bad public document, this communique of August 17, which I think was drafted by members of the State Department Foreign Service under the direction of former Secretary Haig. I believe he was under the influence of a very unwise group of pro-Peking sinologists and media representatives, who have been for a long time committed to an erroneous view that our strategic future in Asia lies with the Communist People's Republic of China, P.R.C., not the free Republic on Taiwan.

To speak broadly, I think this communique is misleading, ambiguous, unwise in its seeming capitulation to blackmail threats from Peking, and unsound in implying American strategic interests are associated with the P.R.C. on the mainland of Asia, rather than the island bastion of free China. It is also close to immoral, if not immoral, in its implied willingness to cut down and eventually cut off arms sales to a loyal and friendly people, the 18 million people on Taiwan, and it is prima facie illegal because of the contradiction with the provisions of the Taiwan Relations Act of 1979.

You may sense that I have a certain reserve in my attitude toward this communique. If you do, you are absolutely correct.

CONGRESSIONAL RESPONSIBILITY FOR CHINA POLICY

I would like to go on to explain my views with a few words about the concerns of this committee, and then a few additional high points of the complex issue of our China policy which indicates that what the Congress does on this issue is a very important matter.

Now, I think it is strange that for a number of years extraordinary shifts in our national security policy and foreign policy concerning China, both the Republic of China on Taiwan and the People's Republic of China on the mainland, have been conducted by secret diplomatic negotiations in which the State Department has seen fit to give very little opportunity for consultation with the legislative branch. I think that is your proper concern, and I agree completely with the implication of your opening remarks. This neglect is especially inexplicable in view of the specific requirements in the Taiwan Relations Act of 1979 declaring the policy of the United States as a matter of law and requesting that the executive branch report to the Congress in the form of its two committees, one in the House and one in the Senate, dealing with foreign relations.

This is a unique provision, as far as I know. But as Senator Stone explained, the foreign policy issue of China was taken out of the normal diplomatic procedures by the Carter administration, when he decided to break off all relations with the People's Republic of China, and made a matter of special law.

So not only the Senate, which normally is clearly involved in foreign policy, but the House of Representatives, and especially its Foreign Affairs Committee, has a role in seeing that the Taiwan Relations Act is carried out as provided by law.

A Presidential communique, however solemn the declarations in it, is not law.

Mr. Chairman, I am sure you are aware of that, and I think the record should make it very clear, that the three communiques—the Shanghai communique in 1972; the Carter communique of 1978, hastily breaking relations with the Republic of China; and establishing relations with the People's Republic of China, Communist China; and this last communique of 1982—are statements of intent by a President, two of them by men no longer President. They are subject to change. A communique is not a treaty, clearly, and it is not a binding executive agreement, or that agreement would have been filed with the Congress as the law requires. It is, in effect, a statement of preference, and I think that you discussed that very thoroughly with Senator Stone.

But I want to make it clear, that there is no question in my mind that the suggestions in the communique must be satisfied as policy statements or policy wishes, if they are in conflict with the law. All of these forms of formal commitments on foreign policy must be registered with the Congress at a minimum, and they must be approved by appropriate elements of the Congress.

A Presidential communique is in effect simply a press release. We have plenty of those in Washington, and they are not all carried out as intended.

THE SOVEREIGNTY ISSUE

I would like to say that P.R.C. has been very skillful in interpreting words in these communiques to their own interests, and we, unfortunately, have allowed them to do so without objection. All three joint communiques appear to use, in the language they employ—to give political sovereignty over Taiwan to the Communist authorities in Peking.

Now, the Communist regime in Peking has never had authority or control over the Island of Taiwan in all of its existence, despite several attempts to take the Island by military conquest.

The United States has never agreed that sovereignty passed to Peking, although Peking has always interpreted these communiques to mean that. Endorsement of the P.R.C. interpretation of the 1982 communique would give the P.R.C. right by force or any other means to treat Taiwan as an internal matter, not just part of some concept of a single Chinese civilization, but the concrete political entity, the People's Republic of China. Such an endorsement would be a tragedy and contrary to everything this country stands for. It would suggest that we are willing to consign to Communist rule 18 million people who consider themselves to constitute a free and sovereign political entity, and have been prepared to defend themselves, provided they can buy the arms to do so under their right of self-defense as granted to them and confirmed as part of American policy in the Taiwan Relations Act of 1979.

Unless the Congress clarifies that situation about the sovereignty issue, the authorities in Peking will have, by clever manipulation of diplomacy and public opinion, vetoed an American law, and that is something that I think this subcommittee has a right to object to.

WAR OR PEACE ISSUE

Gentlemen, I would like to say that in addition to this legal matter of status and sovereignty and law, we are literally talking of a war or peace issue in addition. The Chinese of that remarkably open society and progressive economy of Taiwan, very sensibly, will fight with whatever weapons they may have to defend their right to self-determination.

The Congress, which rightfully undertook to clarify the previous situation created by President Carter, must proceed to prevent the general acceptance of the deliberate misinterpretations by Peking of the joint communique, and the timid resort to ambiguities which our diplomats, I regret to say, are often given to.

We must make a flat assertion of the truth of American policy, and I agree the Congress should, in some way, request or urge the formal U.S. Government's assertion of the binding force of the Taiwan Relations Act of 1979 in order to put a stop to the misinterpretations that are coming out daily from Peking.

ONE CHINA MYTH—TWO CHINA FACT

Now, let me make just a few extra general points, if I may, which are important in understanding how crucial this issue is. It is not just a matter of carrying out our laws, but our interests. One myth that has to be punctured is that there is only one China. The communique says that we acknowledge the view that there is only one China. Many people say this. They clearly are talking about one distinctive Chinese civilization or culture, that has undergone many changes, political and geographic, in the 4,000 years of its existence.

The truth, as any idiot can tell you, by looking at the map and history of the last 40 years, is that in terms of present day political organization, there are plainly two Chinas, two organizations of people, with authorities to pass their laws, duly constituted, in two quite different political systems, in de facto control of their separate territories and people. Both claim to be, by right, the government of one China, or both Chinas, if you like, but actually, de facto, neither has been able to translate this claim into control of the population or territory of the other, since the People's Republic of China seized military control of the mainland in 1949.

So let us not be taken in by the myth that there is in fact only one China, and thereby allow the destruction of the juridical existence, independence, and sovereignty of a going political concern on the Island of Taiwan, the eminently successful Republic of China, which plainly traces its legal and legitimate antecedents to the Chinese Republic founded in 1911 by Sun Yat-sen, the George Washington of modern China.

Thank you.

Senator EAST. Thank you, Mr. Cline.

Dr. CLINE. Do you have time for one more point about the strategy issue? Thank you for letting me add this point.

PRESIDENTIAL ASSURANCES

There is, as I said earlier, a statement by the President that does make a difference in interpreting this matter, and I would like to call it to the attention of the committee.

The U.S. policy set by the Congress, and explicitly endorsed by President Reagan many times in the Taiwan Relations Act is a balanced policy of dealing with both Taipei and Peking, the political entities that actually exist, in accordance with our own strategic interests.

I submit that our interests, particularly our strategic interests, are much greater with the open society and free enterprise economy in Taiwan than with the mainland dictatorship of the People's Republic.

We must make clear what our Taiwan relations obligations are. Congress should spell out, and suggest, as Senator Stone indicated, that the President spell out again, assurances which President Reagan gave to President Chiang Ching-kuo, President of the Republic of China on the Island of Taiwan, only a few weeks ago. These have been revealed publicly, and I am sure the White House will not deny it.

According to these official U.S. Government assurances, the United States, in preparing to issue the joint communique we are here discussing, said, (*a*), it has not agreed to set a date for ending arms sales to the Republic of China; (*b*) it has not agreed to hold prior consultations with the Chinese Communists on all arms sales to the Republic of China; (*c*), the United States will not play any mediation role between Taipei and Peking; (*d*), the United States has not agreed to revise the Taiwan Relations Act; and (*e*), the United States has not altered its position regarding sovereignty over Taiwan. And (*f*), finally, the United States will not exert pressure on the Republic of China to enter into negotiations with the Communist Chinese.

The United States, under many Presidents, while moving toward an opening to the P.R.C., has refused to grant it sovereignty over Taiwan.

I believe that if those points were made a matter of record, that we would then be able to confirm what I feel quite confident is President Reagan's personal view which he expressed in letters to a number of former Ambassadors, one to former Ambassador Unger here at my side, the sentiment of which was, and I quote one of the letters from President Reagan—"Let me assure you that I have not and will not abandon our friends on Taiwan. I will do my best to convince the People's Republic of China that we want to be friends, but we will not forsake one friend to acquire another."

I hope the Congress will help the United States to make this point very clear.

Thank you.

Senator EAST. Thank you, Dr. Cline.

Professor Unger?

Mr. UNGER. Senator East, Mr. Chairman, I certainly want to express my thanks for the opportunity to speak here, and to speak with candor on a subject that I think is of very great concern, for many of the reasons that have been brought out here.

I think that the things that have been mentioned, particularly by Senator Stone, about the need for clarification which, of course, is the basic subject that you have put before us, is extremely important, and I hope that you will get the cooperation of the executive branch in examining the question.

VALUE OF ACT

I am going to speak about the value of the Taiwan Relations Act, to which I attach great importance. When I returned from Taiwan in 1979, early 1979, after the normalization had taken place, I was extremely concerned about the future of the relationship. I felt when the Taiwan Relations Act was put into effect that the matters that had seemed to me ambiguous, or perhaps even negative, had been clarified, and I felt that the future framework was well established, and that my concern about what would happen on Taiwan was very greatly diminished.

I will not go into the association I have had with Taiwan, my admiration for what has been achieved there over the past 25 or 30 years, and definitely the strong desire that this not be jeopardized, and that the well-being of Taiwan's people not be endangered; moreover, that U.S. interests, as has been pointed out already, be upheld and promoted; and the concern about normalization, as I have mentioned, and its consequences for Taiwan, continue to be a concern.

I have another conviction which I would like to state, which is that normalization of relations with the People's Republic of China, also in my view, was in the best interest of the United States, and that I feel a way must be found to move relations with the People's Republic of China onto a sound footing for the long run, given the importance this has also for the security of the United States and its implications in East and Southeast Asia, and in fact, worldwide.

So I feel that this is something that we cannot ignore, we cannot avoid, and it has to be taken into account, as well.

I do apologize, Senator. I do not believe that I can be of very much assistance on a central point that has been raised; namely, the legal and constitutional aspects of this matter, and how that is to be sorted out between the executive and the congressional branch. But I very much hope that you will get the cooperation that you have indicated is necessary to examine this with the executive branch, and to be sure that that has been explored and worked out.

A moment of history. I think there were serious mistakes made in American history and actions in Asia in the period of 1950–55, and I think that the authorities on Taiwan share some of the responsibility on that as well as some of us in the United States. But I do not think it does any good to dwell on that. But had our policy then been to recognize, for example, one China and two governments, as we ultimately did in Germany, we might very well have avoided or greatly reduced the problems that we have been facing in all these subsequent years, and all of the difficulties that we are addressing here today.

So in that sense I do not share some of the concerns expressed about the communiques, but I agree that it is absolutely essential to seek the clarification that you mentioned. I think we have to steer delicate and even sometimes a precarious course; on the one hand not unnecessarily alienating the People's Republic of China and losing the benefit to U.S. security worldwide that has grown out of the improvements that have taken place since the time of the Shanghai communique, and we do not want to permit distrust of the United States and uncertainty of the future.

At the same time, to develop uncertainty on Taiwan, to the point where this damages and weakens the situation and confidence there—in other words, I am saying we have a very narrow and difficult path to follow. It seems to me that the leadership in Peking, and especially of Deng Xiaoping, that they have taken some political risks that we need to recognize, and that it would be contrary to our interests to act in a fashion that would give their opposition a basis for accusing them of a sellout to U.S. interests.

At the same time, the government and people in the Republic of China on Taiwan have to continue to feel that there is a U.S. sincerety in our pledge that the ultimate settlement will be a peaceful one.

Now, what I am doing is describing a dilemma, a conflict, a tension, but one that I feel we have to live with, and have to take into account in the policy courses we follow. Furthermore, if we look realistically at the issues, I think we have to acknowledge if the relatively moderate leadership which is now in charge in Peking should, because of the strains over the Taiwan issue, or other reasons, be succeeded by a less conciliatory and more militaristic regime, that no explanation of the provision of arms to the Republic of China will provide sufficient protection from an assault across the straits, or conquest in some other manner. It would be a bloody struggle, but the ultimate outcome seems clear unless the United States were prepared to move in directly in combat.

So it seems to me that the arms issue is important psychologically and politically, but that we should not delude ourselves as to how much effect it would have if the present desire to pursue a peaceful course were changed on the mainland.

NEED FOR STATUS QUO

So, what is needed, and the matter is one of delicate judgment—we should move in a way to encourage the constructive forces on the mainland in the P.R.C., and not give gratuitous ammunition to their opponents. U.S. policy, I believe, continues to be to see the status quo maintained until an evolution on the mainland, and some also on Taiwan, will make it possible to bring the two together again.

I know that they have been apart since 1895, and the history of separation is a long one, and is, therefore, a complicating factor in the possibility of their coming back together. In the meanwhile, it seems to us that U.S. policymakers have to tread a very difficult and delicate path to preserve the improved, and I believe, valuable relations with the P.R.C., where the leadership is undoubtedly facing internal problems over precisely the issue of Taiwan, and the political opportunists are waiting for the Government in Peking to stub its toe on what is also there an exploitable and sensitive issue.

On Taiwan U.S. policies and decisions must provide adequate reassurance for those who see the P.R.C. as a continuing enemy, and a threat to their way of life.

I am simply underlining problems that are extremely complex, and for which there is obviously no easy solution. But it calls for, it seems to me, wisdom and a careful assessment.

I have been pleased to see, parentheticially, that the Prime Minister in Taiwan made this judgment approximately 3 or 4 months ago, when he said that if the political, economic, social, and cultural gaps between the Chinese mainland and free China, continue to narrow, continue to narrow, the conditions for peaceful reunification can gradually mature. Obstacles to reunification will be reduced naturally with the passage of time.

It seems to me American policy will be wise if it bears in mind this statement from a leader in Taiwan, and a direction that it seems to me is a constructive one. So, a key factor is a commitment taken by the People's Republic of China to strive for peaceful reunification of Taiwan with the mainland. As long as this policy is firmly adhered to, I think we are on a constructive path, and the recent undertakings of the U.S. Government concerning the level of arms sales to Taiwan and the linking of reductions to the working out of a final resolution, that is, a peaceful resolution of the problem, should not create undue anxieties on Taiwan.

As President Reagan himself has said:

> We attach great significance to the Chinese statement in China regarding China's fundamental policy, and it is clear from our statement that our future actions will be conducted with this peaceful policy fully in mind.

And we have already had, I think, a very useful exchange with Senator Stone on the implication of those particular points. The implications being that if the policy is no longer peaceful, then all bets are off, that what has been stated no longer has validity because it is promised on the acceptance of a peaceful resolution of the problem.

As for reductions in U.S. arms sales, as I have said, this is premised on the adherence of the P.R.C. to maintain a peaceful approach to the Taiwan question, and this was characterized as a "fundamental policy."

So, in connection with these hearings, reference has been made to possible legal and other complications because of inconsistencies between the joint communique of last August and the Taiwan Relations Act. I understand that given the language and the provisions of the Taiwan Relations Act, it may be that the Congress, with its equal responsibilities in certain matters set forth in the act, consider the executive department acted in violation of constitutional principle. It seems to me we are in the middle of debate and discussion, and I have to ask to be forgiven if I decline to express a judgment on a matter where I do not feel I have very much competence, and you gentlemen, I know, are going to pursue that one rather fully.

I have tried instead to relate that discussion and that debate to what seemed to me wider issues that really also have to be in the back of our minds as we pursue the matter.

So, leaving aside this question which obviously is a significant one, but one I do not feel competent to address, I return to my general judgment that given the delicacy and the complication and the prime importance of the issues involved, that I feel the executive branch has worked out a delicate balance in our relations with the P.R.C. and Republic of China which will permit them to coexist in peace, that will continue to permit the United States to have fruitful relations with both, whether or not they are considered as diplomatic relations, until such time as a peaceful solution is worked out.

I believe that the Foreign Relations—the Foreign Affairs Committees of the Congress have been in general agreement on this course.

Thank you.

Senator **East**. Thank you, professor.

We will take about a 10-minute break, unless I hear strenuous objection. If I do, I shall overrule it. Let us take a break.

[Short recess.]

Senator **East**. I would like to reconvene.

We have two more witnesses, Prof. James Gregor of the Institute for International Studies of the University of California at Berkeley and Prof. Harold Hinton from George Washington University.

Professor Gregor, I appreciate your coming. You may proceed.

Mr. **Gregor**. With your permission, I would like to append two short documents to my statement. I think they supplement the materials, and they might be informative.

Senator **East**. There being no objection, that shall be done.

Mr. **Gregor**. First of all, I want to thank the chairman for the opportunity to address this issue. Hopefully this discussion will lead to subsequent and more substantial inquiry into a great many collateral issues that are involved in this particular consideration.

IMMEDIATE CONCERN OF SUBCOMMITTEE

Of course, the immediate concern that engages the subcommittee this morning is the problem of executive and legislative powers as those powers find expression in foreign policy initiatives and in the particular instance of the issuance on August 17 of 1982 of the joint P.R.C.-U.S. communique on the subject of American arms sales to Taiwan.

In that communique the United States seems to give the appearance of a readiness not only to restrict its arms sales to Taiwan in both quality and quantity, but seemed prepared to "gradually" reduce such transfers to the point of "final resolution" which I take to mean terminate entirely.

Should the joint communique of August 17 be so construed, it would, in my judgment, violate both the letter and the spirit of the Taiwan Relations Act. Persistence of any such contravention would sorely test the integrity of the constitutional separation of powers, and the effectiveness of the regulative control of the elected Congress over the foreign policy behaviors of the executive branch.

A convincing case can be made that American constitutional law affords the Congress of the United States substantial regulatory power in the articulation of this country's foreign policy commitments. One way in which this power manifests itself is in the relationship between domestic legislation and international agreements. In the 1980 draft of the "Restatement on the Foreign Relations Law of the United States," prepared by the American Law Institute, it is affirmed that, "An act of Congress that is enacted after * * * an international agreement is in force for the United States supersedes an inconsistent provision of * * * [said] agreement as law of the United States," particularly "if the purpose of Congress to supersede the earlier provision is clearly expressed * * *."

Now, my contention is that given our constitutional arrangements, the Taiwan Relations Act—as duly framed domestic legislation—supersedes any elements of the Shanghai and normalization communiques that are in conflict with its provisions. More significantly, as has already been suggested, while there is no doubt that both communiques referred to above are significant documents having ill-defined consequences for American foreign policy, they are neither treaties nor executive agreements, and consequently "cannot be regarded as intended to give rise to a contractual obligation." Communiques and public affirmations do not, in and of themselves, give rise to obligations in law.

This is particularly true with respect to American obligations vis-a-vis Taiwan. It can be argued that only the promulgation of the Taiwan Relations Act drew out the implications for Taiwan contained in the joint communiques in terms of determinate American behaviors. The recital of those behaviors created the necessary conditions that gave rise to the binding obligations that still obtain.

Now, what those obligations are is evident in the legislative history, and in the text, of the act itself. You have heard one of the architects of that act express those intentions very clearly. They are explicitly stated. It is to provide a sufficient defensive capability to the people on Taiwan.

Now, since the promulgation of the Taiwan Relations Act, the authorities in Beijing have insisted that the commitments embodied in the Taiwan Relations Act are of no effect—superseded in their judgment by what they take to be implicit in the antecedent joint communiques. Not only does this suggest ignorance of American constitutional law, it also involves a self-serving interpretation of what those communiques involve.

For example, spokesmen for Beijing have consistently interpreted the recognition accorded in Washington to the People's Republic of China "as the sole legal Government of China," and its "acknowledgment" that there "is but one China and Taiwan is part of China," to mean that the United States has granted that Taiwan is an intrinsic part of the sovereign territory of the People's Republic. In fact, the United States has never accepted any such interpretation of the joint communique.

POSITION OF UNITED STATES

The position of the United States is eminently clear. The official position has been that the United States "recognizes the People's Republic of China as the sole legal government of China." It has also "acknowledged the Chinese position that Taiwan is a part of China, but the United States has not itself agreed to this position." The official State Department release states that the United States "takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. domestic law."

Now, whatever the American position is, Beijing has insisted upon its own interpretation of the language of the joint communiques. In verbal attacks of increasing intensity, spokesmen in Beijing have insisted that the Taiwan Relations Act "violates the Sino-U.S. agreements on the establishment of diplomatic relations * * *," apparently on the grounds that the sale of defensive arms to Taiwan impairs the sovereign integrity of the People's Republic of China.

Now, as long as this confusion exists, I would submit that Beijing will create problems for the United States.

For reasons that in large part still remain obscure to me, the United States has attempted to accommodate Beijing's interpretation. The joint communique issued on August 17, 1982, seems to close much of the distance that had obtained between the position advanced by Beijing and that entertained by Washington. The language of the August 17 communication, of course, is exceedingly obscure—but it would be very difficult to interpret the locutions of that document as anything other than a serious violation of the spirit, and probably the letter, of the Taiwan Relations Act.

Now, on the other hand, curiously enough, the present administration has consistently maintained that its relations with Taiwan will be governed by the stipulations of the Taiwan Relations Act. In its communication to the governing authorities in Taipei on July 14, 1982—prior to the official issuance of the August 17 communique—the administration argued that Washington had "not agreed to revise the Taiwan Relations Act." The administration apparently conceives the concessions contained in the joint communique of August 17, 1982, to be fully compatible with the obligations contained in the Taiwan Relations Act. To make a case for such purported compatibility is very difficult.

The Taiwan Relations Act clearly obliges the United States to provide defensive arms to Taiwan as long as there is a threat of violence or coercion in the Taiwan Strait region. The United States has assumed the responsibility of maintaining the "capacity" to resist "any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan." That "capacity" clearly requires a readiness to "make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability."

There is absolutely no suggestion in the text of the act or in the legislative deliberations that preceded it that the administration is empowered to unilaterally impose restrictions, either quantitative or qualitative, on arms sales and transfers to Taiwan. Section 3b of the Taiwan Relations Act provides that both "the President and Congress shall determine the nature and quantity of such defense articles and services" to be provided Taiwan, based "solely upon their judgment of the needs of Taiwan. * * *."

Now, if the circumstances in the region have not changed and the President—the administration—has not consulted with the Congress prior to the communication, I would hold that the communication is in substance nothing more than an announcement of some vague intention. However this provides Beijing with the grounds for raising further objections.

The only constraint on arms sales to Taiwan that is implicit in the text of the Taiwan Relations Act turns on some assessment of sufficiency in terms of the island's "self-defense capability." Since the provisions of the act are calculated to provide the capabilities that would render Taiwan militarily defensible not only against overt armed attack, but against naval investment and economic harassment, it would appear that any restrictions on arms sales would be the consequence of manifest changes in the military balance in the strait region and/or firm commitments by all parties concerned not to contemplate any recourse to violence or coercion in the effort to resolve the dispute between Beijing and Taipei.

OBLIGATIONS AND ARMS SALES

In substance, the obligations assumed in the Taiwan Relations Act require that any reduction in arms sales to Taiwan be linked to manifest and determinate changes in the security environment of the Taiwan Strait. Since there has been no change in the military balance in the strait, nor has Beijing shown any disposition to renounce the use of force in the resolution of its claims on Taiwan, any commitment on the part of the administration to "gradually reduce (the) sale of arms to Taiwan" without providing evidence of such change, would violate both the spirit and the letter of the Taiwan Relations Act.

The fact of the matter is that Beijing has already seized upon the communique to use it to support its claim that international law requires that the United States terminate altogether arms sales to Taiwan.

Unless Washington undertakes to more effectively communicate its understanding of the communique of August 17, future relations between the United States and the People's Republic of China, at best, will be seriously impaired. At worse, the Taiwan Relations

Act will be gutted, and the American security and economic interests in the entire region hopelessly impaired.

Taiwan occupies critical space along the major sea lanes of communication that stretch from the Straits of Malacca to Northeast Asia. The bulk of Northeast Asia's maritime cartage, bulk carriers and fossil fuel transport, transits through the Bashi Channel and the Taiwan Strait. Both Japan and the Republic of Korea are abjectly dependent on that flow of traffic to maintain the viability of their resource dependent and export oriented economies. Command of these waterways by a power over which the United States, at best, has episodic influence and only shares temporary parallel interests does not recommend itself.

The declaratory foreign policy of the People's Republic of China remains to this day what it has always been: the United States is understood to be an "imperialist" and "superpower" adversary both in Asia and throughout the world. The Republic of Korea remains "illegitimate"—with the Communist Democratic People's Republic of Korea—North Korea—the only legitimate claimant for control over the entire Korean Peninsula.

Given its view of the world, Beijing is not the most attractive candidate in Asia as a Western security asset. Its control over Taiwan might very well destabilize the entire region to American disadvantage. Beijing's control over Taiwan would provide the People's Republic of China considerable leverage over the fate of South Korea and allow it to significantly reduce the foreign policy options open to Japan. In effect, it is in the best interests of the United States that the strategic circumstances in the Taiwan Strait not be altered.

It is very unlikely that the United States would deploy its armed forces in the Taiwan Strait as a consequence of any crisis that threatened armed conflict between the People's Republic of China and Taiwan. In any such eventuality, Washington would have to leave the island to its fate—at the expense of its credibility as a defense partner and its substantial economic, political and security interests in East Asia. To maximally reduce the prospects of any such crisis, Taiwan should possess a credible defensive capability. It is not the vulnerability of Taiwan that enhances the prospects of peace in the Taiwan Strait—it is its deterrent ability to exact unacceptable costs from any aggressor.

It is in the interests of the United States to insure Taiwan a credible measure of defensive capability. That was clearly the intention of the architects of the Taiwan Relations Act. It is that intention that is threatened by the most recent joint communique. If paragraph 6 of the communique is understood to mean that the United States will impose a fixed dollar ceiling on all future arms sales to Taiwan, it is evident that the predictable inflationary increase in the per unit costs of military equipment will rapidly reduce arms transfers to Taipei to negligible amounts.

If the qualitative restrictions imposed on the sale of weapons systems is not indexed to the evolving and progressively sophisticated capabilities developed by Beijing, Taiwan will very rapidly find itself not only outnumbered but outclassed by the PRC military in every category of conventional weaponry. That means that the threat of violence and hostility in the strait will be enhanced rather than reduced.

The language of the joint communique of August 17 does not make clear whether the suggested restrictions on arms sales to Taiwan are to be relative or absolute. None of the assurances extended by administration spokesmen to the authorities in Taipei includes any indication of what the operational meaning of such quantitative and qualitative restrictions might be. Only if the terms involved are invested with nonstandard meaning could the clear intentions of the Taiwan Relations Act regarding the provision of a sufficiency of arms adequate to Taiwan's defense be preserved.

ADMINISTRATION CLAIM DISPUTED

The administration has insisted that the joint communique of August 17, 1982, does not impair the integrity of the Taiwan Relations Act. It is very difficult to see how that could be the case. What seems to be required is a clear statement of what the proposed restrictions on arms sales to Taiwan actually mean. Paragraph 6 of the joint communique states that arms sales to Taiwan will be limited, in quality and quantity, to the "level of those supplied in recent years since the establishment of diplomatic relations between the United States and China * * *."

Senator Barry Goldwater is reported to have been assured that the phrase "level of those supplied in recent years" was intended to refer to the $830 million in arms purchases allowed in 1980—subject to adjustments for any subsequent inflation. If such is the case, the administration is obliged to convey such information to the principals concerned. To date, the administration has not been forthcoming in either confirming or rejecting such an interpretation.

Moreover, it has been reported that the qualitative restraints are flexible and would allow Taiwan to purchase more advanced weapons in the future if the People's Republic of China upgrades its inventory. This kind of interpretation is no better supported than the best case interpretation of the quantitative restrictions alluded to in the communique of August 17.

Whatever the case, whatever the legal status of these communiques, it is painfully evident that what is required is clarification: One, in order to establish the compatibility of the commitments embodied in the joint communique of August 17, 1982 and the legislative language of the Taiwan Relations Act; two, to halt the continuing erosion of American credibility throughout Asia; three, to avoid further misunderstanding with Beijing; and finally four, to insure that Taiwan can continue to procure arms at a predictable rate.

Continued stability in the Taiwan Strait is in the long term ultimate best interests of the United States. There is no plausible reason that could be given for any further mortgaging of those interests to purchase the grudging tolerance of Beijing.

The fact is that the People's Republic of China has very little to offer the United States in terms of geostrategic advantage. The P.R.C. is a security asset of marginal importance. Clearly, proper diplomatic relations between Washington and Beijing are intrinsically important. Trade and cultural contacts recommend themselves. But any effort to foster Sino-American relations at the expense of Taiwan, and in violation of the clear commitments embodied in the Taiwan Relations Act, would only purchase very little at inordinate expense.

Thank you.

Senator EAST. Thank you very much.

Professor Hinton?

Mr. HINTON. Thank you, Mr. Chairman.

It has been said that perhaps the greatest contribution of the ancient Greeks to civilization was two little words meaning: On the one hand, and, on the other hand.

In this spirit, on the one hand I agree with most of what has been said in this room this morning about the incompatibility between the Taiwan Relations Act, which I consider an excellent piece of legislation, and the recent communique of August 17, which I consider a rather weak document.

TWO SPECIFIC WEAKNESSES

I would like to speak to two specific weaknesses which have not been mentioned. One is that although the Chinese side mentions two past occasions, upon which it stated that its "fundamental policy toward Taiwan is one of peaceful resolution," it does not explicitly state that this fundamental policy is still in force.

On the American side, we do not specifically make the tapering off of arms sales to Taiwan conditional upon continued peaceful Chinese behavior in the Taiwan Straits. It is done implicitly, but I think it should be done explicitly.

Having said all that, on the other hand my policy conclusions are somewhat different from most of the other witnesses that have spoken to you already. They are somewhat parallel to Professor Unger, and I would like to explain my rationale.

The past four administrations, Nixon through Reagan, have perceived that the Soviet Union had acquired a considerable military edge over the United States in conventional forces, and at least according to some views, in strategic forces as well. In the context of this problem, China is one of the external assets we have available. While its value, as Professor Gregor says, it is questionable at best, it is probably greater than zero, and needs to be explored much more than has been possible yet.

These administrations have also realized that in order to have any chance of working with the People's Republic of China along these lines, concessions at the expense of Taiwan would, regrettably, have to be made. This seems to me simply one of those things that cannot be helped, deplorable though it is.

Recently, as has also been pointed out, and everybody knows, China has taken an increasingly anti-American line, not only with respect to arms sales to Taiwan, but with respect to other issues as well. I think the reasons for this are fairly complicated and relate to the basic fact that we and the Chinese are simply not on the same wavelength, and that, furthermore, the current principal leader in China, Deng Xioaping, is a man much more impatient and difficult to get along with. If Chou En-lai was active and in good health, I think that many of these problems seriously before us would be less difficult to handle.

Therefore, it follows that after Deng Xioaping ceases to be active, some of these things may be possible, which appear difficult now.

As for the problem between the executive and the Congress, with respect to the communique, basically I would like to beg off, as Ambassador Unger wisely did. Let me quote for you from the decision by the U.S. Court of Appeals around the end of 1979, when it upheld President Carter's right to terminate the mutual defense treaties without concurrent action by Congress: "The subtleties involved in maintaining amorphous relationships are often the very stuff of diplomacy, a field in which the President, not Congress, has responsibility under our Constitution."

As I am sure you know, the Supreme Court refused to review this decision, and thus, it stands.

The United States is, at the present time, trying to work out a strategic relationship with China, to help us cope with the Soviet Union. It may well be impossible to do that, but I hope very much, if it does prove to be impossible, one of the reasons for the failure will not be congressional action.

On the question of arms for Taiwan, let me make just a few observations. The real core of American policy toward Taiwan since 1950 has not been arms sales, or other particular issues of that kind, important though they are in their own context. The basic point is that Taiwan should not be, and must not be, coerced by the mainland into accepting a relationship that Taiwan is not ready for. This seems to be still the case, and the Taiwan Relations Act seems to me to provide a very good basis for the United States to insure by whatever minimal means are necessary that Taiwan not be coerced.

I tend to agree with what one of the other witnesses said, if I understood him, that it would not be possible under any realistic circumstances for the United States to provide Taiwan with a defense capability that would be adequate, without external support, to deter, or if necessary, defend the island against a really determined attack from the mainland. It may be desirable to do so, but not possible.

KEY TO AMERICAN POLICY

It seems to me that the key to American policy is to maintain alive in Peking's mind the possibility of direct American intervention in the fight, in the event, which I think is very unlikely, that the mainland attack Taiwan.

Let me indicate some of the reasons why this is not likely. In the first place, Taiwan, with or without the United States, is likely to have a formidable defense capability.

Second, Taiwan, as one of our previous witnesses indicated, does a very extensive foreign trade, not only with the United States, but with many other countries, and therefore any action that was intended to hurt Taiwan would be an American concern also—not only of the United States. Peking is well aware of this, and I think is not likely to jeopardize its own external economic and political relationships for the sake of a place it evidently thinks belongs to it.

As a specific example of what I am talking about, Peking at this very moment is getting underway a series of offshore oil explorations by foreign companies, including several of the majors. This is immensely important to Peking's economic future, at least as it now perceives it, and it is clear that the oil companies are rather nervous, and if there is anything like a war in the Taiwan Straits, or even a declared blockade of Taiwan, the oil companies which are now very sensitive, would be likely to pull out. This is something that I think Peking would not risk.

The importance it attaches to this is indicated by a good deal of evidence, including the fact that a large number of Chinese visitors have Houston on their itinerary.

In addition, there is the problem of Soviet behavior. The Soviets still have a very pressing presence near the border, even though it is not postured in an offensive mode, as the North Korean forces are in South Korea. If China, as I say—in the unlikely event that China should decide to attack Taiwan in some serious, concerted manner, the Chinese would have to assume that the Soviets might be tempted to take action along the border, which they have had the ability to do since about 1969.

It seems to me, therefore, in view of all these complicating considerations, the best goal for the Congress in terms of a policy, would be not to prod the executive about arms sale, but to stand ready in the event there is trouble in the Taiwan Straits, meaning to underwrite executive action in support of Taiwan, having already provided such a foundation in the Taiwan Relations Act.

Thank you.

THE CONFLICTING LANGUAGE

Senator East. Thank you.

On this question of the conflict between the communique and the act, which of course, has been the heart of these hearings and the basis for holding them, it is, I think, useful to quote briefly the language of the act, and then the communique. I would reiterate my earlier position that to me the conflict is clear, manifest, and well nigh impossible for a reasonable mind to deny. We are told in the Taiwan Relations Act that the policy of the United States is to provide, among other things, Taiwan with arms of a defensive character. This is in section 2 (22 U.S.C. 3301(b)(5)).

In section 3 (22 U.S.C. 3302) we are told, in furtherance of the policy set forth in the preceding section, from which I have just read, "the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." That is subsection a.

Then subsection b says, "The President and the Congress," that is what we are, "shall determine the nature and quantity of such defense articles and services based solely upon their," not "his," but "their"—the two branches—"judgment of the needs of Taiwan." That language to me is rather clear and unequivocal.

Then I turn to paragraph 6 of the joint communique of August of this year, and I am told that this is the position of the executive branch, "Having in mind the foregoing statements of both sides, the U.S. Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or quantitative terms, the level of those supplies in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution."

Now, I would submit that if you took a college freshman and asked him if he saw any apparent conflict between those statements, and he said I find them perfectly compatible, you would not give him very high marks, because it would indicate a lack of facility with the native tongue—namely, English.

POINTS OF AGREEMENT

Certainly, the consequence is clear and compelling. Not to put words in the mouths of any of the distinguished people here this morning, there might be various nuances here that one could pursue in greater length or depth, but I have not heard from anyone here that is strongly dissenting from the notion that there seems to be a problem presented in terms of the conflict here.

How deep it goes, the substance of it, the remedy to it—I appreciate all of you may have different perspectives on these questions. But I think all of your testimony this morning does seem to underscore that there is a conflict.

In short, this has not been an exercise in futility, and it is not a frivolous point to pursue. I am trying to reach some consensus on that point.

As I noted at the outset, there is what I think to be a fundamental, technical, constitutional problem of a conflict between what the act says and what the executive branch says.

Another common denominator of all of your testimony, which I would like to think underscores the importance of this hearing, is the belief that this conflict forebodes a very substantial policy question, because it does indicate that the executive branch now seems to be moving in a direction that is different from the Taiwan Relations Act.

THE "RATCHET EFFECT"

In short, it raises a whole spectrum of potential policy shifts in the foreign policy of the United States. I do not want to be an alarmist or to overact to it, but when you put things in historical perspective, this becomes part of what I would call the "ratchet effect."

The Government on the mainland, Communist China, is always put in a stronger position, and the Government on Taiwan always ends up in a potentially weaker position, and always the language is of such a character that there is this "ratchet effect" which tightens over time to the disadvantage of Taiwan. It has enormous policy implications for this country and for the peace and stability in the Far East and the world at large.

I was curious in this discussion of American relations with Taiwan to note just the language. People in this country dutifully use the term the "People's Republic of China."

As a matter of dimension, there is no "Republic" on the mainland of China. It is not a "People's Republic." It is a totalitarian dictatorship. It reminds me of George Orwell's "1984," where we have "doublespeak." We refer to the "People's Republic of China," which is a totalitarian dictatorship. Where we used to speak of the "Republic of China," we can no longer speak of that. We have to speak of the "Government on Taiwan." Language becomes important in this: It is a part of the whole complex climate and chemistry of the "ratchet effect."

I notice some here were troubled about this. Some speak of the "People's Republic of China," the "P.R.C." I never used the word or acronym "P.R.C.," because as a former professor of politics, and as one still keenly interested in the problem, I do not see how one can grace that place with the words "People's Republic." It is just simply not so.

When we get through these hearings today, plus the one we are going to have on the 27th, if we can contribute in even a small, modest way to some television or other mode of public dialog on the subject, I will consider it a worthwhile contribution. We are very likely to be ignored to some extent by the executive branch, and very likely to be ignored by the national media. That would not surprise me. But I would like to think that what we are talking about is not frivolous. It is serious and substantive, and I am willing to proceed on that basis.

That is what we have done and what we will continue to do. Maybe we can light some sparks of interest here or there, perhaps even contribute to some reexamination in the White House and the State Department. Miracles never cease in politics, though I agree they are rare.

I wanted to indicate that I have found in the discussion this morning, without putting words into the mouths of our very distinguished panelists, that you did raise a serious point. Long-term policy questions are involved here that the policymaking branch, the Congress of the United States, ought to be interested in.

I would feel remiss if we let this pass by. I do not think it is a minor footnote to international geopolitics. It has enormous implications beyond that.

I would be happy to have any of you make additional observations.

Professor Gregor?

Mr. GREGOR. I thought it might serve some purpose to touch on some further concerns—the charge of the subcommittee was relatively narrow. I attempted to address the issue of the concept of the separation of powers in my prepared statement, but I think another issue has been joined in the discussion which merits some consideration at some future time, if not by this subcommittee, then by some alternative agency in the Senate or in the House of Representatives. It is our disposition to govern our relations with the People's Republic of China from the vantage point what I would take to be a best-case scenario. The suggestion is that, after all, the P.R.C., has such extensive contacts with the West—offshore exploration and drilling, capital transfers and trade—that it will act in a responsible manner. I would suggest that is an issue which should be studied in greater depth. I would suggest, just for the purpose of this discussion here, that we recall that whenever judgments were made about the behavior of the People's Republic of China, there were always ample reasons to suggest that the P.R.C. would do precisely what it did not do. I think some of us are old enough to remember the Korean war. At that time people insisted the P.R.C. will not get involved in the conflict. Their economy is in shambles. Their weapons are badly out of date. Their logistics infrastructure is too weak. And then the mainland Chinese proceeded to invade Korea with massive forces—much to the dismay of all of the allies.

I would suggest that if you think about the invasion of Vietnam—undertaken by the P.R.C. after the Soviet Union had signed a friendship and mutual assistance treaty with Vietnam—that that was hardly an ideal time to do it. The fact of the matter is that the P.R.C. did move 500,000 troops in 20 divisions into that area, supported by 1,000 aircraft, and a large, if indeterminate, number of battle tanks. They did proceed to fight in Vietnam while facing the threat of Soviet intervention in the north—but the People's Republic of China acts on imperatives which we apparently do not understand.

The other illustration I would recommend for your consideration is the invasion of the Paracel Islands in 1974. Everyone said that such an adventure was absolutely impossible simply because it would violate the sensibilities of the Vietnamese—who, at that time, were their allies.

In fact, the Chinese explain their behaviors very simply. They remind us that they were prepared to alienate the Soviet Union at a time when they were abjectly dependent on Moscow for economic and military assistance. What makes the West imagine that Beijing will concede anything to the West because of relatively modest trade relations? The Chinese themselves dismissed the possibility. I cannot imagine why it is necessary for us to speculate about their behavior when their explicit policy statements inform us that Beijing will pursue what it takes to be its own interests using whatever means it chooses.

So I do not take too much comfort in allowing violations of the Taiwan Relations Act to take place on the grounds that the P.R.C. will be a responsible world citizen. The historic record does not bear that out. I hope that Beijing will act in a responsible fashion. I would like to believe it. But I think that allowing the future of 18 million on Taiwan to rest on that rather thin supposition is not in the best interest of the United States and I would suggest that to allow infractions of constitutional law in order to support that interpretation again is not to be recommended.

Senator EAST. Thank you.

Dr. Cline.

Dr. CLINE. Have you got a moment for two short points? I first want to say I concur in your historical and strategic remarks in conclusion of the morning's session, but I have two points I would like to add.

STRATEGIC LOSSES FROM U.S. FLIRTATION WITH P.R.C.

Contrary to Ambassador Unger's view, and I believe my friend Harold Hinton's view to some extent, I think the history of American flirtation with close relations with the P.R.C. has been a failure rather than a success. That does not mean we should not try to get cooperation with the P.R.C. But if you look at what has happened since 1979 when we broke with Taiwan and started diplomatic relations with the P.R.C., Communist China, we have spurred the Russians into major strategic deployments in the Pacific which are adverse to our interests and which the Chinese Communists can do absolutely nothing to oppose. We have seen many more Soviet armed divisions in East Asia. We have seen the Soviet naval and air bases established in Vietnam, permitting regular reconnaissance flights over these sea lanes. We have seen the deployment of new and more numerous navy vessels to the West Pacific to challenge our control of the seas, not only in the West Pacific, which is vital to our trade with those offshore countries but in the straits leading to the Indian Ocean and Persian Gulfs. I think we are strategic losers so far in this pursuit of the will of the wisp of the "strategic imperative." Alexander Haig perceived requiring close relations with the P.R.C. I would be prepared to argue that at greater length, but I would like to get that simple statement into the record.

Finally, let me add a personal note which may be relevant to your remarks. I have been following China policy since World War II days when we first sent a mission from OSS up to China to interview Chou En-lai. While I was not along, I was preparing the reports back here in Washington for my bosses and through them for President Roosevelt. I have observed over a long time a remarkable fuzziness about our relation with these two Chinas. But there is one point of clarity I would like to call to your attention.

JOHN F. KENNEDY'S VIEWS ON CHINA

Twenty years ago, when I was CIA Deputy Director for Intelligence, President Kennedy asked me into his Oval Office for a private talk about our China policy at that time. And he asked the key question which lies behind everything we have been discussing this morning. He said, "Is there anything at all that the United States can do to make Communist China less hostile and more cooperative?" I told him then, I made a memo on the record on it, "Nothing, unless you are willing to cut off support of Taiwan and facilitate Peking's military conquest of that island." And President Kennedy promptly responded spontaneously, "We can never do that, not only would it be totally dishonorable, it would destroy our credibility with every friend in the world who depends on us for security."

I believe that it is very important for the Congress to make sure that the sentiment which I think most Americans share with President Kennedy—I am sure President Reagan does—is confirmed in the interpretations of this new communique and in the implementation of commitments in the Taiwan Relations Act.

Senator EAST. Professor Hinton.

Mr. Hinton. I certainly agree that the United States should do nothing to facilitate the conquest of the island by the mainland. I think I was making the point that the mainland is very unlikely to do that.

On the question of the interpretation of the motivation and the causes of the Soviet military buildup in recent years in Malaysia and in the Pacific, which nobody would dispute, actually the agreement with Vietnam for Soviet bases there in almost all certainty occurred secretly in late 1978 as part of their mutual treaty of friendship and was then actualized after the Chinese attack on Vietnam, and that means in that case the agreement was reached before the United States agreed on normalization with China. I do not really think that something like a normalization of relations with China, while undoubtedly it irritates the Soviets and stimulates efforts against China, is one of the main causes of their recent actions. It simply happened, and our problem is to react.

In this process, the China card is one of the cards. Our hand at this point is rather weak and we have to play the cards we have, or try to.

Senator EAST. Thank you.

One question comes to mind, Professor Hinton. I think the observation you just made is a valid assessment. But I wonder what the communique sets in motion in the long term, what I am calling the "ratchet effect"? You say you do not think that Taiwan would need to fear any attack from Communist China. As a matter of elementary geopolitics in the Far East, one could, at least for the purposes of discussion, agree that that is a valid point. However, to the extent that we continue to isolate Taiwan and be a part of the process of international isolation—diplomatically, culturally, and economically—we, perhaps unwittingly, work Taiwan into somewhat of a pariah status in international relations, and Communist China manages to grow in stature in terms of acceptance and acquiescence by others in the international community.

Do we not run the risk at some point of having been a part of a process that reaches a point where we would have to say, "Yes, Communist China could attack Taiwan." In fact, at some point that likelihood may balance the other way—in favor of such likelihood of attack.

My concern is that what the facts are today may not be the facts a decade from now if a policy direction of this kind is set. Rhetoric, language, and communiques are part of these policies. They begin to condition the public debate and perception. Ultimately, reality grows out of all this, and it would be the reality of an infinitely weaker Taiwan and an infinitely stronger Communist China. No one today can foresee who will be in charge in the year 2000 in a totalitarian regime. Then the attack comes and there are acquiescences in the West. I just do not know that we can separate our conduct at this point, to put it in historical context, from what has been going on since 1945. I do not wish to exaggerate it but the scenario is chilling and disconcerting to me, and I look upon this communique policy as a part of it.

Is that a fair assumption, that this contributes to a continuing deterioration so that what you said is not likely to occur today, a reasonable mind could foresee happening in the future? First, we make Taiwan into a noncountry as a part of our foreign policy. Then former President Nixon goes to mainland China and is wined and dined. This symbolism is clear. Any fair-minded student of international politics sees that. I think we do an enormous disservice to an old and a faithful ally. I think we do an enormous disservice to ourselves and the cause of peace and stability in the world as we continue to stumble along in this drunken path, always weakening the posture of Taiwan and always working to strengthen the position of the so-called P.R.C.

I do not wish to sound paranoid. Paranoia only exists when you have an unrealistic fear someone is out to get you. I believe the P.R.C. is, in quotes, "out to get Taiwan" and, hence, it is not a case of paranoia. It is a case of an accurate statement.

I remember Solzhenitsyn said in his Harvard address that our current arrangement with Communist China is an alliance with the Devil. That may be putting it a little strongly, but it may be closer to the mark than we realize.

The administration and the international media and others seem to be saying, "Well, look, there's nothing to get excited about here. After all, mainland China will not attack Taiwan. That is why we are not concerned about the communique."

No; mainland China may not attack today. But when you look at the position of Taiwan in the international community today, as opposed to what it was earlier, to me the trend is down. It is not right. I am uncomfortable with it. As one small voice in this country, I would like to protest.

Do you see that deterioration or do you think I exaggerate? Again I put you on the spot. You can answer any way you want to.

Mr. Hinton. I get asked these questions all the time. No problem. Yes; I am concerned about these things and have been for a long time. I try to keep my concern under control in the light of the other things which I have tried to indicate.

Let me indicate something else I have not mentioned before, and that is that in the opinion of analysts operating out of Hong Kong, who certainly have better information than I do, that the thrust of the current development of the mainland Chinese Navy, which is perhaps doing better than their other branches of service, appears to be oriented toward the idea of a long-term confrontation with Vietnam rather than across the Taiwan Straits, and for this and a variety of other reasons, more tenuous than that, the likelihood of a sustained, concerted assault across the strait does not seem very great. Not only in my eyes but in those of others more informed than I.

In the long run, we are all dead. I cannot begin to guess what will happen 10 years from now. But in the present time and the near future, that is the situation as far as I can see it. If there were to be a change sufficient to jeopardize Taiwan, I think we would have plenty of advance warning and time to do something about it. But I do not think it will change in the so-called foreseeable future.

Senator East. I would like to ask you gentlemen, because you are students of international affairs, whether we have much precedent for the idea that the United States, in developing a relationship with one country, allows that country to dictate so specifically and so manifestly our relationship with another country? I do not know. I am just inquiring. Is there precedent for the idea that in order to gain the recognition of one country, you repudiate your diplomatic status with another? That was just the first part of this scenario.

The Taiwan Relations Act said very categorically that these are decisions to be made independently of the demands and wishes of Communist China. Now, the communique goes back on that old kick that our relationship with this noncountry of Taiwan will be dependent upon the wishes of, the desires of, and our overall relationship with Communist China.

Is there precedent for this sort of thing? Or is it rather unique in international relations? Canada would not dictate our relationship with Mexico, diplomatically and otherwise. I find this a sort of a fascinating game of taking a resilient, productive, creative country with which we had diplomatic relations and breaking those relations at the demand of another. All of a sudden, this now noncountry finds its status continually undergoing a reevaluation, not only diplomatically but militarily and every other way, depending on what this other country that we are now engaged in diplomatic relations with wishes. It seems to me that it is a poor way to run international affairs. It is opening you to blackmail of all kinds in the future.

In short, why cannot these matters be handled independently? If we want to "play the China card against Russia," well, play it. Why do we do it at the expense of Taiwan any more than we do it at the expense of Indonesia, the Philippines, or Japan?

Dr. Cline?

Dr. CLINE. I would like to comment on that, sir. I think you are right, that we treat Taiwan as a noncountry outside the boundaries of the precedent we follow in dealing with other international entities that we recognize. I do not think there is any precedent in history for the arrogant belief that if the United States discontinues diplomatic relations with a country, that that country therefore ceases to exist. That is the implicit assumption that our State Department has been operating on for some time. There are more than 20 countries still recognizing the Republic of China. The Republic of Korea and Saudi Arabia recognize the government in Taipei as the sovereign Republic of China. So it is still there, whether we say we have diplomatic relations with it or not, and that is why the Congress protected that relationship, which the executive branch chose not to call diplomatic. We are handling this in a way completely different from our normal way of conducting international affairs. We do this, in my view, out of exaggerated regard for the opinion of the Communist authorities in Peking. This communique in fact was written in Peking, and not in Washington.

Senator EAST. So this is unprecedented?

Dr. CLINE. I believe it is.

Senator EAST. Well, gentlemen, the hour is late. It is now 1 o'clock and we have been at it since 10. Thank you.

[The prepared statements and submissions of Messrs. Cline, Gregor, and Hinton follow:]

PREPARED STATEMENT OF RAY S. CLINE

Mr. Chairman,

The release by the White House of the United States-China Joint Communique of August 17, 1982 -- replete with diplomatic double-talk and calculated ambiguity -- places a heavy responsibility on the Congress to clarify the international commitments of the United States in a way that upholds American integrity and credibility in foreign affairs.

For ten years extraordinary shifts in the complex problem of China policy, governing our relations with one quarter of the people in the world, have been made in secret diplomatic negotiations conducted by the State Department with little regard for the constitutional responsibility of the Legislative Branch of the Government. Not only is the Senate specifically empowered to give advice and consent to the making of treaties and the dispatch of ambassadors to foreign countries, but the Congress as a whole is given power specifically "to provide for the common defense and general welfare .... [and] to regulate commerce with foreign nations."

This neglect of the interest of the Congress in China policy is inexplicable because it disregards express statements enacted in law in the Taiwan Relations Act of 1979 declaring it "the policy of the United States" to preserve and promote close links with "the people on Taiwan, as well as the people on the China mainland." The law further provides that "any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan" should be resisted as "a threat to the peace and security of the Western Pacific area and of grave concern to the United States."

To carry out this policy the Congress included in the act of 1979 a commitment "to maintain a sufficient self-defense capability" on Taiwan, the "nature and quantity of such defense articles" to be determined by the "President and Congress," not just the President, with the determination "based solely upon their judgment of the needs of Taiwan." This language is remarkably tight and does not authorize the U.S. State Department to settle these matters in Peking on behalf of the Executive Branch without reference to the intent of the Senate and the House of Representatives.

Ordinarily giving "advice and consent" on foreign policy in the form of treaties and international executive agreements with the force of law is a prerogative of the Senate only. In the case of relations with the "18 million Chinese people of Taiwan" whose "human rights" as well as security were "reaffirmed as objectives of the United States" in the Taiwan Relations Act, a special legal provision was made at the request of President Carter to exclude this relationship from normal diplomatic procedures and deal with it on an unofficial, non-governmental basis. Accordingly the Taiwan Relations Act set up special unofficial institutions outside of the State Department and provided for both the House of Representatives and the Senate through their appropriate committees to "monitor" not only "the implementation of the provisions" of the Taiwan Relations Act but also "the implementation of the policies of the United States concerning security and cooperation in East Asia."

This mandate for bicameral Congressional monitoring of a foreign policy issue is unique as far as I know in legislative history. It was enacted to give special attention to a problem foreseen to be controversial and contentious and where the moral commitment of the American people to foreign obligations of many years standing was in question as a result of the announcement of President Carter on December 15, 1978 of his decision to break diplomatic relations with the Republic of China, abandon the Mutual Defense Treaty of 1954 covering Taiwan, and declare the Communist People's Republic of China the sole legal Government of China. President Carter himself, despite some prima facie conflicts between the Joint Communique of December 15, 1978, and the Taiwan Relations Act of 1979, signed the latter and made it the "law of the land", as

President Reagan has repeatedly declared it to be.

Just to be sure there was no doubt to whom the security and defense assistance pledge was being made, the 1979 act contained a definition that "the term 'Taiwan' includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities."

This language makes it very clear that the United States, in ending diplomatic relations with the Republic of China did not believe that it thereby ceased to exist as a political personality and a sovereign entity nor believe that it was within the power or intent of the United States to subordinate this territory and its 18 million inhabitants to the authority of the Government in Peking, making Taiwan a province of the Communist State, the People's Republic of China (PRC), on the mainland.

Against this background any impartial observer must condemn the fuzz-words in the 1982 Joint Communique and attendant pronouncements. "There is but one China" has become a cliché, and the United States repeatedly has "acknowledged the Chinese position that there is but one China and Taiwan is part of China." This formula is, however, ambiguous. It avoids the key questions: Does the United States recognize that Taiwan is part of the PRC as it "acknowledges" Peking claims? Or is Taiwan, as the "authorities in Taipei" insist, a part of the Republic of China lawfully established in 1911 and still surviving in Taiwan?

The Chinese in Taipei argue that the PRC is also a part of China, occupying the mainland by force but having no right to occupy another part, Taiwan.

The PRC has consistently manipulated these verbal formulas to appear to give it political sovereignty over Taiwan, which the Communist authorities have never had and which they failed to take by military conquest in several tries. The United States has never agreed to this Peking sovereignty argument, but the language of the 1982 Communique comes dangerously close to implying it. Endorsement of the PRC interpretation of the 1982 Communique by the United States would not only be a new policy and an unprecedented consignment of 18 million people who consider themselves to constitute a free and sovereign political entity, but it would also violate all of the provisions I have quoted from the Taiwan Relations Act of 1979.

Unless the Congress clarifies this situation, the authorities in Peking will have effectively vetoed an American law. They make clear that is exactly their intent. They threaten dire consequences if the Taiwan Relations Act contradicts their own interpretation of the Joint Communique of 1982 as giving the PRC literally sovereignty over Taiwan. They still propose to use force to carry out this interpretation of the Commmunique if necessary.

Gentlemen, we are literally talking of a war or peace issue. The Chinese of the remarkably open society and progressive economy of Taiwan will fight to defend their right to self-determination, sovereignty, and self-defense. The Congress, which rightly undertook to clarify the anomalous international situation created by President Carter's over-hasty recognition of the PRC, now must further clarify its position in the face of deliberate misinterpretation of the present situation by Peking and the timid resort to even fuzzier ambiguities by American diplomats and their friends in Peking. This clarification is the responsibility of the whole Congress, and I hope that this Committee will follow the legislative history and only honorable foreign-policy position open to the United States by flatly asserting the binding force of the statesmanlike piece of legislation passed to deal with these issues, the Taiwan Relations Act of 1979.

Let me conclude by making a few points about China policy that indicate how sound the objectives outlined in the Taiwan

Relations Act really are. In doing so I hope to lay to rest a few fictions that are often cited as arguments for setting aside the provisions of the Taiwan Relations Act in order to fend off the wrath of the rulers of Communist China.

Point one. The first myth that needs to be punctured is that there is only one China. Many people say this, including statesmen who know better. It is manifestly untrue. I suppose what "one China" really means is that there is one distinctive Chinese civilization or culture that has undergone many political and geographic changes in 4,000 years. The truth--unpalatable as it may be to some -- is that in terms of present-day political organization, there are plainly two Chinas. One has its capital in Peking, the other in Taipei. Large groups of people of Chinese ethnic origin live in two separate well-defined territories controlled by separate political entities styling themselves governments.

Each of these governments claim to be by right (de jure) the Government of both Chinas, but actually (de facto) neither has been able to translate its claim into control of the population or territory of the other since the Communist People's Republic of China seized control of mainland China by military revolution in 1949. For its part, the PRC has never controlled the island of Taiwan.

The political system in Taipei traces its legitimacy back to the Republic of China founded in 1911 by Sun Yat Sen-- the George Washington of modern China. These two separate parts of China probably will be reunified in the future, but the Communist regime and the free-enterprise society on Taiwan cannot be put together meaningfully unless one establishes rule over the other.

Even the well known, generally pro-PRC scholar from Harvard, professor John Fairbank, admitted (in The Atlantic of September 1976) that one China is "not a workable fact." He observed, accurately: "The one China doctrine is one of those hoary Chinese devices for manipulating the unsophisticated barbarian." Let us not be so unsophisticated or barbarous as to accept this myth as a fact justifying forcing free China to become part of communist China. In some semantic constructions two Chinas can be called one China, but our common sense tells us how different and irreconcilable island China and mainland China are.

Point two. There is a second myth about China policy I want to demolish--one I often hear--which is that the Shanghai Communique of 1972 requires the United States to conduct is relations with China, including Taiwan, on PRC terms. The February 1972 Communique, often used to justify the language of "Shanghai II" in 1982, was one of those calculated ambiguities for which Henry Kissinger, then the President's Assistant for National Security, is justly famous. It did not say, as is frequently alleged, that we committed ourselves to a full diplomatic relationship with Peking based on the one-China concept. We only "acknowledged" that Chinese on both sides felt there was only one China. If you have any doubt about it, I refer you to the press conference which Dr. Kissinger held in Shanghai as soon as the communique had been issued. Some of the journalists asked him, in effect, "What does this Shanghai Communique do to our treaty commitment with the Republic of China for the Defense of Taiwan?"

Henry answered, "We stated our basic position with respect to this issue in the President's World Report in which we say that this treaty will be maintained. Nothing has changed on that position." And if you'll look at the World Report which had come out only about three weeks before, on February 9, 1972, it said explicitly, under the President's signature, "With the Republic of China, we shall maintain our friendship, our diplomatic ties, and our defense commitment."

I find it very hard to reconcile this statement, never officially repudiated or altered, with the oft-reiterated myth that we have a moral obligation, because Nixon signed the Shanghai Communique, to endorse totally the PRC's one-China position on which it bases its right to treat Taiwan as a domestic internal affair of the PRC and none of the business of either the American President or the American Congress. Jimmy Carter came very close to accepting this view in 1978 and Ronald Reagan's 1982 Joint Communique comes even closer.

Saying two equals one does not make it so, however, and reality concerning China is duality of society, economy, politics, and sovereignty. When we repeat the incantation that there is but one China we appease Peking but affront common sense.

Point three. It is not our duty or our right, as pro-Peking Sinophiles suggest, to settle the sovereignty dispute between the two political entities, one on Taiwan and one on the mainland of China. The Chinese ought to settle this problem themselves, however long it may take, without resorting to force or coercion as the Taiwan Relations Act says.

The Chinese people on Taiwan do not want their open society with a prosperous economy ten times as advanced as the impoverished People's Republic of China (PRC) to become part of a Soviet-model one-party dictatorship. They will fight to prevent it. They want American arms to defend themselves against PRC threats.

What Peking's leaders want is Taiwan, a juicy geostrategic and economic plum. They say the Chinese citizens of the Republic of China on Taiwan have no choice but to submit to Peking's rule. They have demanded that American arms to defend Taiwan's freedom be stopped so Taipei will be powerless to resist. This demand must be rejected.

This means we all, including members of Congress, must resolutely denounce the idea that the United States would consider being a party to forcing the citizens of Taiwan, who want to remain non-Communist, to become a subordinate political entity under the government of Communist China.

The pressure is very severe on our government to force

Taiwan to return to the mainland, which means returning to the embrace, not necessarily very tender, of the Communist Party of China and the government of the People's Republic of China, one of the most oppressive one-party dictatorships in the world. Now,we have, in the postwar period, Mr. Chairman, tolerated the movement of a number of large areas and large groups of people into the bloc or association of Communist states, most of them dominated by the Soviet Union, a fact which we generally deplore. I am not aware that we have ever forced any group of 18 million people against their will to become part of a Communist state, and I do believe that that is the requirement which Peking is putting on us in demanding that we stop military aid to Taiwan despite the provisions of the Taiwan Relations Act of 1979.

Point four. Americans must never submit to diplomatic blackmail. It only brings new pressure. The PRC leaders have never offered to do anything for the United States, which they routinely criticize as a hegemonistic superpower. In ten months of eyeball-to-eyeball negotiation they simply threatened to denounce Reagan and distance themselves from the United States. As soon as the August 17 communique was issued, they began to threaten retaliation if it was not interpreted in the way they wished.

President Reagan personally values highly the achievements and the loyalty of our old friends of the Republic of China, but he wants no more trouble with Peking than necessary when he has plenty on other issues. Thus he was gradually pressured by his Sinophile, anti-Soviet bureaucracy into accepting the key language of the communique. It is: "the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan... and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." These words must be defined very carefully to show they are not, as they seem *prima-facie*, a flat commitment flying in the face of the ironclad American guarantees to sell arms to Taiwan as long as needed for self-defense. Ronald Reagan as a candidate and as President whole-heartedly endorsed this security guarantee. He steadfastly asserts he still does. The Congress must see that the arms needed are supplied.

Most Asians, however, indeed most American allies, are already thinking that the mighty United States has kowtowed to Communist China, tacitly accepting its claimed right to govern Taiwan and take control by whatever methods prove necessary, including military force. They see a tilt toward Communist dictatorship -- against a free economic and political system. The Congress must prevent that interpretation from taking hold by firmly asserting and building into the public record Executive Branch commitments to the contrary.

To appease Peking in this way and implicitly encourage the PRC to try once again to seize Taiwan is to insure another bloody war in Asia. Americans tend to forget that the two costly wars in which American forces have fought since 1945 have been in Asia, with Communist China on the other side: in Korea in the 1950's and in Vietnam in the 1960's. The U.S. policy set by the Congress and explicitly endorsed by President Reagan, a balanced policy of dealing with both Taipei and Peking, must not be undercut by the deliberate ambiguities and outright concessions to the PRC in the August 17 communique. The Congress should spell out what the communique does *not* mean, as President Reagan did in assurances to President Chiang Ching-kuo of the Republic of China on Taiwan.

According to these official U.S. Government messages the U.S.--

a. Has not agreed to set a date for ending arms sales to the Republic of China.

b. Has not agreed to hold prior consultations with the Chinese Communists on arms sales to the Republic of China.

c. Will not play any mediation role between Taipei and Peking.

d. Has not agreed to revise the Taiwan Relations Act.

e. Has not altered its position regarding sovereignty over Taiwan.

f. Will not exert pressure on the Republic of China to enter into negotiations with the Chinese Communists.

Secret negotiations with Peking notwithstanding, these commitments are American policy according to President Reagan and should be put on the record by the Congress. I am sure President Reagan is an honorable man and sincere in his explanation of his understanding of his negotation with Peking. On May 18, 1982, he wrote former Ambassadors to the Republic of China as follows:

"Let me assure you (the press notwithstanding) that I have not and will not abandon our friends on Taiwan. I will do my best to convince the People's Republic of China that we want to be friends, but we will not forsake one friend to acquire another."

This position must be confirmed by the Congress as the policy of the country as a whole. I feel confident, as public polling suggests, it is the view of a large majority of the American people (84% according to a Sindlinger poll of mid-1982). It is not only a point of national honor but also respectable conduct of international relations to make this position unmistakably clear. I hope the Congress will strive to do so.

PREPARED STATEMENT OF A. JAMES GREGOR

I wish to thank the Chairman and the members of this Subcommittee for the opportunity to address issues that I take to be of fundamental importance to the United States in East Asia. The immediate concern that engages the Subcommittee this morning is the problem of the separation of executive and legislative powers as those powers find expression in foreign policy initiatives.

On August 17, 1982 a joint PRC-US communique on the subject of American arms sales to Taiwan was issued. In that communique the United States gave the appearance of a readiness not only to restrict its arms sales to Taiwan in both quality and quantity, but seemed prepared to "gradually" reduce such transfers to the point of "final resolution" (paragraph 6 of the Joint Communique)---in effect, to terminate such sales.

Should the Joint Communique of August 17th be so construed, it would---in my judgment---violate both the letter and the spirit of the Taiwan Relations Act (Public Law 96-8 of April 10, 1979). Persistence of any such contravention would sorely test the integrity of the constitutional separation of powers, and the effectiveness of the regulative control of the elected Congress over the foreign policy behaviors of the executive branch.

I believe it can be convincingly argued that American constitutional law affords the Congress of the United States substantial regulatory power in the articulation of this country's foreign policy commitments. One way in which this power manifests itself is in the relationship between domestic legislation and international agreements. In the 1980 draft of the Restatement on the Foreign Relations Law of the United States, prepared by the American Law Institute, it is affirmed that "An act of Congress that is enacted after...an international agreement is in force for the United States supersedes an inconsistent provision of.../said/ agreement as law of the United States," particularly "if the purpose of Congress to supersede the earlier provision is clearly expressed..." (para. 135 sec. 2).

In the apposite commentary, it is further asserted that "Since treaties and acts of Congress are given equal weight by the Constitution as domestic law, Congress has the authority to override the effect of a treaty as domestic law by a subsequent act that is within its legislative authority under the Constitution.

It has the same authority with respect to international agreements other than treaties or the rules of customary international law."

Given our constitutional arrangements, the Taiwan Relations Act---as duly framed domestic legislation---supercedes any elements of the Shanghai and Normalization Communiques that are in conflict with its provisions. More significantly, while there is no doubt that both communiques referred to above are significant documents having ill-defined consequences for American foreign policy, they are neither treaties nor executive agreements, and consequently "cannot be regarded as intended to give rise to a contractual obligation" (L. Oppenheim, International Law /London: Longmans, Green, 1955. Eighth edition/, 1, p. 873). Communiques and public affirmations do not, in and of themselves, give rise to obligations in law (see the appended publication, Hungdah Chiu, "The Future of US-Taiwan Relations," Asian Affairs, September-October 1981, pp. 20-30).

This is particularly true with respect to American obligations vis-a-vis Taiwan. It can be argued that only the promulgation of the Taiwan Relations Act drew out the implications for Taiwan contained in the Joint Communiques in terms of determinate American behaviors. The recital of those behaviors created the necessary conditions that gave rise to the binding obligations that still obtain. What those obligations are is evident in the legislative history, and in the text, of the Act itself (see the appended publication, E. K. Snyder and A. J. Gregor, "The Taiwan Relations Act").

At the very commencement of the deliberations that preceded the markup of the Taiwan Relations Act, Senator Frank Church, Chairman of the Senate Committee on Foreign Relations, expressed the sentiments of the Committee when he held that the new relations with the People's Republic of China must be pursued only with sensitive regard for "the future security and well-being of the people of Taiwan." It quickly became evident that the security of Taiwan was an overriding consideration in the crafting of the Taiwan Relations Act. What this was understood to mean was a readiness on the part of the United States to provide the people of Taiwan with "sufficient defensive weapons to assure their defense...."

In the text of the Taiwan Relations Act this concern was incorporated not only in the commitment to "provide Taiwan with arms of a defensive character" (Taiwan Relations Act, Sec. 2a, 5), but to provide such arms "in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability" (Ibid., Sec. 3a). These commitments were entered into because the "peace and stability in the area" were understood to be "in the political, security and economic interests of the United States...," and any "effort to determine the future of Taiwan by other than peaceful means..." would constitute "a threat to the peace and security of the Western Pacific area" and be "of grave concern to the United States" (Ibid., 2b, 2 and 4).

Since its promulgation, the authorities in Beijing have insisted that the commitments embodied in the Taiwan Relations Act are of no effect---superseded in their judgment by what they take to be implicit in the antecedent Joint Communiques. Not only does this suggest ignorance of American consitutional law, it also involves a self-serving interpretation of what those communiques involve. As an illustrative case in point: spokesmen for Beijing have consistently interpreted the recognition accorded by Washington to the People's Republic of China "as the sole legal Government of China," and its "acknowledgment" that there "is but one China and Taiwan is part of China," to mean that the United States has granted that Taiwan is an intrinsic part of the sovereign territory of the People's Republic. In fact, the United States has never accepted any such interpretation of the Joint Communique.

The position of the United States is eminently clear. The official position has been that the United States "recognizes the People's Republic of China as the sole legal government of China." It has "also acknowledged the Chinese position that Taiwan is a part of China, but the United States has not itself agreed to this position." The United States "takes no position on the status of Taiwan under international law, but does regard Taiwan as a country for purposes of U.S. domestic law" (Taiwan Enabling Act /Washington, D. C.: Government Printing Office, 1979/, p. 7).

However unequivocal the American position, immediately after the national elections of November 1980, Beijing began to insist upon its own interpretation of the language of the Joint Communiques. In verbal attacks of increasing intensity, spokesmen in Beijing have insisted that the Taiwan Relations Act "violates the Sino-U.S. agreements on the establishment of diplomatic relations...," apparently on the grounds that the sale of defensive arms to Taiwan impairs the sovereign integrity of the People's Republic of China. The People's Republic of China insists on its unilateral interpretation of the Joint Communiques---and further maintains that the communiques supersede any commitments embodied in the Taiwan-Relations Act.

For reasons that in large part still remain obscure to most foreign policy analysts outside the Administration, the United States has attempted to accommodate Beijing's interpretation. The Joint Communique issued on August 17, 1982 seems to close much of the distance that had obtained between the position advanced by Beijing and that entertained by Washington. The language of the August 17th communication, of course, is exceedingly obscure---but it would be very difficult to interpret the locutions of that document as anything other than a serious violation of the spirit, and probably the letter, of the Taiwan Relations Act.

Curiously enough, the present Administration has consistently maintained that its relations with Taiwan will be governed by the stipulations of the Taiwan Relations Act. In its communication to the governing authorities in Taipei on July 14, 1982---prior to the official issuance of the August 17th communique---the Administration argued that Washington had "not agreed to revise the Taiwan Relations Act." The Administration apparently conceives the concessions contained in the Joint Communique of August 17, 1982 to be fully compatible with the obligations contained in the Taiwan Relations Act. To make a case for such purported compatibility is very difficult.

The Taiwan Relations Act clearly obliges the United States to provide defensive arms to Taiwan as long as there is a threat of violence or coercion in the Taiwan Strait region. The United States has assumed the responsibility of maintaining the "capacity" to resist "any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan." That "capacity" clearly requires a readiness to "make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability" (Taiwan Relations Act, Sec. 2b, 6 and Sec. 3a). There is absolutely no suggestion in the text of the Act or in the legislative deliberations that preceded it that the Administration is empowered to unilaterally impose restrictions, either quantitative or qualitative, on arms sales and transfers to Taiwan. Section 3b of the Taiwan Relations Act provides that both "the President and Congress shall determine the nature and quantity of such defense articles and services" to be provided Taiwan, based "solely upon their judgment of the needs of Taiwan...." Even if circumstances in the region recommended a reduced level of arms transfers, any decision to so limit sales would necessarily involve prior consulation with the Congress of the United States. That the Administration is prepared to impose restrictions, either quantitative or qualitative, on the sale and transfer of military materiel to Taiwan without consultation with Congress would appear to be a serious infraction of the stipulations of the Taiwan Relations Act.

The only constraint on arms sales to Taiwan that is implicit in the text of the Taiwan Relations Act turns on some assessment of "sufficiency" in terms of the island's "self-defense capability." Since the provisions of the Act are calculated to provide the capabilities that would render Taiwan militarily defensible not only against overt armed attack, but against naval investment and economic harassment (Ibid., Sec. 2b, 4), it would appear that any restrictions on arms ~~slaes~~ sales would be the consequence of manifest changes in the military balance in the Strait region and/or firm commitments by all parties concerned not to contemplate any recourse to violence or coercion in the effort to resolve the dispute between Beijing and Taipei. In substance, the obligations assumed in the Taiwan Relations Act require that any reduction in arms sales to Taiwan be "linked" to manifest and determinate changes in the security environment of the Taiwan Strait. Since there has been no change in the military balance in the Strait, nor has Beijing shown any disposition to renounce the use of force in the resolution of its claims on Taiwan, any commitment on the part of the Administration to "gradually...reduce /the/ sale of arms to Taiwan" without providing evidence of such change, would violate both the spirit and the letter of the Taiwan Relations Act.

It is evident that the Ministry of Foreign Affairs of the People's Republic of China chooses to interpret the Joint Communique of August 17, 1982 as committing the United States to conform to Beijing's interpretation of the communique (see Xinhua August 17, 1982). According to that interpretation, "U.S. arms sales to Taiwan should have been terminated altogether long ago." In Beijing's considered opinion those sales violate "China's sovereignty," and the Taiwan Relations Act is no more than an action undertaken "unilaterally by the United States" that violates the "basic norms guiding international relations." Unless Washington undertakes to more effectively communicate its understanding of the Communique of August 17th, future relations between the United States and the People's Republic of China, at best, will be seriously impaired. At worse, the Taiwan Relations Act will be gutted, and American security and economic interests in the entire region hopelessly impaired.

Taiwan occupies critical space along the major sea lanes of communication that stretch from the Straits of Malacca to Northeast Asia. The bulk of Northeast Asia's maritime cartage, bulk carriers and fossil fuel transport, transits through the Bashi Channel and the Taiwan Strait. Both Japan and the Republic of Korea are abjectly dependent on that flow of traffic to maintain the viability of their resource dependent and export oriented economies. Command of these waterways by a power over which the United States, at best, has episodic influence and only shares temporary "parallel interests" does not recomend itself.

The declaratory foreign policy of the People's Republic of China remains to this day what it has always been: the United States is understood to be an "imperialist" and "superpower" adversary both in Asia and throughout the world. The Republic of Korea remains "illegitimate"---with the communist Democratic People's Republic of Korea (North Korea) the only legitimate claimant for control over the entire Korean peninsula.

Given its view of the world, Beijing is not the most attractive candidate in Asia as a Western security asset. Its control over Taiwan might very well destabilize the entire region to American disadvantage. Beijing's control over Taiwan would provide the People's Republic of China considerable leverage over the fate of South Korea and allow it to significantly reduce the foreign policy options open to Japan. In effect, it is in the best interests of the United States that the strategic circumstances in the Taiwan Strait not be altered.

It is very unlikely that the United States would deploy its armed forces in the Taiwan Strait as a consequence of any crisis that threatened armed conflict between the People's Republic of China and Taiwan. In such an eventuality, Washington would have to leave the island to its fate---at the expense of its credibility as a defense partner and its substantial economic, political and security interests in East Asia. To maximally reduce the prospects of any such crisis, Taiwan should possess a credible defensive capability. It is not the vulnerability of Taiwan that enhances the prospects of peace in the Taiwan Strait---it is its deterrent ability to exact unacceptable costs from any aggressor.

It is in the interests of the United States to ensure Taiwan a credible measure of defensive capability. That was clearly the intention of the architects of the Taiwan Relations Act. It is that intention that is threatened by the most recent Joint Communique. If paragraph 6 of the communique is understood to mean that the United States will impose a fixed dollar ceiling on all future arms sales to Taiwan, it is evident that the predictable inflationary increase in the per unit costs of military equipment will rapidly reduce arms transfers to Taipei to negligible amounts.

If the qualitative restrictions imposed on the sale of weapons systems is not indexed to the evolving and progressively sophisticated capabilities developed by Beijing, Taiwan will very rapidly find itself not only outnumbered, but outclassed by the PRC military in every category of conventional weaponry.

The language of the Joint Communique of August 17th does not make clear whether the suggested restrictions on arms sales to Taiwan are to be relative or absolute. None of the assurances extended by Administration spokesmen to the authorities in Taipei includes any indication of what the operational meaning of such quantitative and qualitative restrictions might be. Only if the terms involved are invested with non-standard meaning could the clear intentions of the Taiwan Relations Act regarding the provision of a sufficiency of arms adequate to Taiwan's defense be preserved.

The Administration has insisted that the Joint Communique of August 17, 1982 does not impair the integrity of the Taiwan Relations Act. It is very difficult to see how that could be the case. What seems to be required is a clear statement of what the proposed restrictions on arms sales to Taiwan actually mean. Paragraph 6 of the Joint Communique states that arms sales to Taiwan will be limited, in quality and quantity, to the "level of those supplied in recent years since the establishment of diplomatic relations between the United States and China...."

Senator Barry Goldwater is reported to have been assured that the phrase "level of those supplied in recent years" was intended to refer to the $830 million in arms purchases allowed in 1980--subject to adjustments for any subsequent inflation. If such is the case, the Administration is obliged to convey such information to the principals concerned. To date the Administration has not been forthcoming in either confirming or rejecting such an interpretation.

Moreover, it has been reported (Time, 30 August 1982, p. 21) that the qualitative restraints are flexible and would allow Taiwan to purchase more advanced weapons in the future if the People's Republic of China upgrades its inventory. This kind of interpretation is no better supported than the best-case interpretation of the quantitative restrictions alluded to in the communique of August 17th.

Whatever the case, it is painfully evident that what is required is clarification: (1) in order to establish the compatibility of the commitments embodied in the Joint Communique of August 17, 1982 and the legislative language of the Taiwan Relations Act; (2) to halt the continuing erosion of American credibility throughout Asia; (3) to avoid further misunderstanding with Beijing; and finally (4) to ensure that Taiwan can continue to procure arms at a predictable rate.

Continued stability in the Taiwan Strait is in the longterm ultimate best interests of the United States. There is no plausible reason that could be given for any further mortgaging of those interests to purchase the grudging tolerance of Beijing. The fact is that the People's Republic of China has very little to offer the United States in terms of geostrategic advantage. The PRC is a security asset of marginal importance. Clearly, proper diplomatic relations between Washington and Beijing are intrinsically important. Trade and cultural contacts recommend themselves. But any effort to foster Sino-American relations at the expense of Taiwan, and in violation of the clear commitments embodied in the Taiwan Relations Act, would only purchase very little at inordinate expense.

September
October
1981

Asian Affairs

An American Review

THE FUTURE OF US-TAIWAN RELATIONS

PROFESSOR HUNGDAH CHIU
UNIVERSITY OF MARYLAND
500 WEST BALTIMORE STREET
BALTIMORE, MARYLAND 21201

Sponsored by
American-Asian
Educational Exchange
NEW YORK

The Future of US-Taiwan Relations

HUNGDAH CHIU

In analyzing the future of US-Taiwan relations, one must begin with the legal and political framework surrounding the normalization of relations with the People's Republic of China effected by the Carter Administration in late 1978 and early 1979.[1] Despite President Reagan's personal feelings about Taiwan, his administration cannot disregard this framework without paying a significant political cost at home and abroad. There are, however, methods of maneuvering within the framework of normalization that each administration can resort to in order to maximize or minimize its relations with Taiwan. For this reason, the second part of this essay deals with Reagan's policy toward Taiwan. The last part will tackle some issues in implementing that policy, and their implications for US-Taiwan-PRC relations.

When President Carter announced on December 15, 1978, that he had reached an agreement with the PRC to normalize relations, he virtually accepted all three PRC conditions for normalization—the severance of diplomatic relations with the ROC, the abrogation of the US-ROC mutual defense treaty, and the withdrawal of troops from Taiwan—all without receiving in return any promise from the PRC to refrain from using force against Taiwan. In fact, the only concession he received from the PRC was that the latter abstained from insisting on a US commitment not to sell arms to Taiwan following normalization. After the normalization process had been completed, however, the PRC did register its opposition to further US arms sales to Taiwan. On the issue of the legal status of Taiwan, Carter only "acknowledge(d)," but did not "recognize," "the Chinese position that there is but one China and Taiwan is part of China."

Because there was no security guarantee for Taiwan after normalization, the US Congress, by an overwhelming majority, passed the Taiwan Relations Act on March 29, 1979. It was signed by President Carter on April 10, 1979. Those few who voted against the act did so on the ground that it was insufficient because it did not require the re-establishment of official relations with Taiwan.

The Taiwan Relations Act contains a six-point policy declaration to provide Taiwan with security guarantees. Section 2(b) declares that it is the policy of the United States (1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations with Taiwan; (2) that peace and stability in the Western Pacific area are in the political, security, and economic interests of the United States and are matters of international concern; (3) that the US decision to establish diplomatic relations with the PRC rests upon the expectation that the future of Taiwan will be determined by peaceful means; (4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and a matter of grave concern to the United States; (5) to provide Taiwan with arms of a defensive character; and (6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security or the social or economic system of the people on Taiwan.

In addition to security guarantees, the Taiwan Relations Act also provides for the continuation of all existing treaties and agreements between the United States and the ROC, unless and until they are terminated in accordance with the law; the establishment of "unofficial" organizations in each other's territory to handle all programs, transactions, and other relations with respect to Taiwan; and the granting of privileges and immunities to these "unofficial" organizations similar to those accorded public international organizations and their personnel.

The PRC made only a perfunctory protest against the Taiwan Relations Act on March 16, 1979, shortly before its adoption.[2]

II

On August 25, 1980, during the presidential campaign, Ronald Reagan made a statement on the Guiding Principles for the Far East that would inform the policy of his administration. The main points of this statement were as follows.[3]

> *First*, US-Chinese relations are important to American as well as Chinese interests. Our partnership should be global and strategic. In seeking improved relations with the People's Republic of China, I would extend the hand of friendship to all Chinese. In continuing our relations, which date from the historic opening created by President Nixon, I would continue the process of expanding trade, scientific, and cultural ties.
>
> *Second*, I pledge to work for peace, stability, and the economic growth of the Western Pacific area in cooperation with Japan, the People's Republic of China, the Republic of Korea, and Taiwan.
>
> *Third*, I will cooperate and consult with all countries of the area in a mutual effort to stand firm against aggression or search for hegemony which threatened the peace and stability of the area.
>
> *Fourth*, I intend that United States relations with Taiwan will develop in accordance with the law of our land, the Taiwan Relations Act. This legislation is the product of our democratic process, and is designed to remedy the defects of the totally inadequate legislation proposed by Jimmy Carter . . .
>
> I am satisfied that this act provides an official and adequate basis for safeguarding our relationship with Taiwan, and I pledge to enforce it. But I will eliminate petty practices of the Carter Administration which are inappropriate and demeaning to our Chinese friends on Taiwan. For example, it is absurd, and not required by the Act, that our representatives are not permitted to meet with Taiwanese officials in their offices and ours. I will treat all Chinese officials with fairness and dignity.

I would not impose restrictions which are not required by the Taiwan Relations Act and which contravene its spirit and purpose. Here are other examples of how Carter has gone out of his way to humilate our friends on Taiwan:

Taiwanese officials are ignored at senior levels of the US government.

The Taiwan Relations Act specifically requires that the Taiwanese be permitted to keep the same number of offices in this country as they had before. Previously, Taiwan had 14 such offices. Today, there are but nine.

Taiwanese military officers are no longer permitted to train in the United States or to attend service academies.

Recently, the Carter Administration attempted to ban all imports from Taiwan labeled "made in the Republic of China," but was forced to rescind the order after opposition began to mount in the Congress.

The Carter Administration unilaterally imposed a one-year moratorium on arms supplies even though the (Taiwan Relations) Act specifies that Taiwan shall be provided with arms of a defense character.

The Carter Administration abrogated the Civil Aviation Agreement with Taiwan, which had been in effect since 1947, in response to demands from the People's Republic of China.

I recognize that the People's Republic of China is not pleased with the Taiwan Relations Act, which the United States Congress insisted on as the official basis for our relations with Taiwan . . . But it *is* the law of our land.

Fifth, as President I will not accept the interference of any foreign power in the process of protecting American interests and carrying out the laws of our

> land. To do otherwise would be a dereliction of my duty as President.
>
> It is my conclusion that the strict observance of these five principles will be in the best interests of the United States, the People's Republic of China and the people on Taiwan.

After the inauguration of President Reagan on January 20, 1981, a senior US official, Under Secretary of State Walter J. Stoessel, enunciated US policy toward the PRC and the ROC in an address before the Los Angeles World Affairs Council on April 24, 1981, in the following terms.[4]

> Our relations with China are governed by the terms of the joint communique of January 1, 1979, establishing diplomatic relations between our two countries. These ties, now over two years old, are firmly grounded on both sides in enlightened self-interest and mutual respect . . .
>
> Regarding Taiwan, this Administration intends to faithfully implement the Taiwan Relations Act, the law passed by Congress which sets the parameters for our nonofficial ties on the basis of a longstanding and warm friendship with the people of Taiwan. Our conduct of this relationship with Taiwan will be responsible, respectful, realistic, and consistent with our international obligations.

Both statements should be considered as the basis of President Reagan's policy toward Taiwan. The problem is how to implement this policy.

III

The Reagan Administration hopes to reconcile the US-PRC joint communique on normalization and the Taiwan Relations Act in its China policy, though the PRC considers that the joint communique should take precedence. In the last stages of the Carter Administration, when

President Carter tried to implement some parts of the Taiwan Relations Act, such as granting privileges and immunities to the main unofficial organization of Taiwan in the United States, the Coordination Council for North American Affairs (CCNAA), the PRC immediately protested. In practice, however, Peking's relations with the United States continued to be conducted as usual. Ironically, during that period the PRC did not protest, at least publicly, the Carter Administration's announcement of arms sales to Taiwan in the amount of $280 million.

After the Reagan Administration took office, the PRC began its attack on the Taiwan Relations Act as a whole. Beginning with an article in the official *Beijing Review* published right after the November 4, 1980, election,[5] the attack has steadily intensified. On July 4, 1981, the PRC's authoritative *People's Daily* carried an especially tough attack to the effect that the act "violates the Sino-US agreement on the establishment of diplomatic relations and the principles of international law." It also threatened the use of force against Taiwan by stating that the Taiwan Relations Act amounted to an obstruction of Taiwan's unification with the mainland; and that "as a result, China may be forced to resort to nonpeaceful methods to settle the Taiwan problem."

Because of this attack on the Taiwan Relations Act, some elements in the United States began to advocate the view that the act can only be executed within the limits of the joint communique on normalization.[6] This view appears to be based on ignorance or misunderstanding of US constitutional law. In this connection, it is sufficient only to cite two authorities. Professor Louis Henkin of the Columbia University Law School wrote in 1972:[7] "As with treaties, of course, a self-executing executive agreement would surely lose its effect as domestic law in the face of a subsequent act of Congress." The most recent draft of the Restatement on the Foreign Relations Law of the United States, prepared by the American Law Institute, expressed a similar view.[8]

> § 135 - Inconsistency between International Law or Agreement and Domestic Law in the United States . . .
>
> (2) An act of Congress that is enacted after . . . an international agreement is in force for the United States supersedes an inconsistent provision of . . . the agreement as law of the United States, if the purpose of Congress to supersede the earlier provision is

> clearly expressed or if the act and the earlier provision cannot be reconciled.

The commentary to this section says:[9] "Since treaties and acts of Congress are given equal weight by the constitution as domestic law, Congress has the authority to override the effect of a treaty as domestic law by a subsequent act that is within its legislative authority under the constitution. It has the same authority with respect to international agreements other than treaties or to rules of customary international law."

Hence it seems groundless to argue that the US-PRC joint communique on normalization, which is not even an executive agreement, could overrule or limit the Taiwan Relations Act. Even assuming that, for foreign policy reasons, it may be important to implement both the joint communique and the Taiwan Relations Act, the correct approach would be to construe each in such a way as to give effect to both, if that can be done without violating either. If that cannot be done, then the Taiwan Relations Act must, under the constitution, prevail over the joint communique.

With respect to the PRC's argument as to the "agreement" embodied in the joint communique, there appears to be a basic misunderstanding of the nature of this document. There is no doubt that the joint communique is an important political document. But it is certainly not in the nature of a "treaty" or "agreement" in international law. As one international law treatise has stated:[10] "A mere general statement of policy and principles cannot be regarded as intended to give rise to a contractual obligation." As a matter of fact, the United States has never considered the joint communique as a treaty or executive agreement. It is neither published in the official *United States Treaties and Other International Agreements*, nor listed in the annual official publication *Treaties in Force.*

In view of the above analysis, it seems clear that President Reagan's decision to reconcile the Taiwan Relations Act and the joint communique on normalization in the conduct of US relations with the PRC and Taiwan is both appropriate and required under the US constitutional system. But whether this constitutionally required approach will in fact be sustained is heavily dependent upon continued Congressional oversight of the implementation of the Taiwan Relations Act, and President Reagan's will to resist the PRC and its supporters in the United States. The question of the sale of the FX airplane to the ROC is one example of the dilemma confronting the United States in its relations with the PRC and the ROC.

IV

As stated before, when establishing diplomatic relations with the PRC, President Carter made it clear that the United States would continue to sell defensive weapons to Taiwan even after the establishment of diplomatic relations with the PRC. It was on that condition that diplomatic relations between the PRC and the United States were established and ambassadors exchanged. In the last stage of his administration, President Carter ordered the release of technical data on the FX airplane to the ROC for consideration prior to sale. But when President Reagan attempted to complete the sale, the PRC and its supporters in the United States launched an attack on this country, and the Peking government even threatened to downgrade US-PRC relations if the sale of the FX airplane went through. Such an attack on US arms sales to Taiwan is a clear violation by the PRC of an important condition of normalization. Unfortunately, however, some Reagan Administration officials appeared to take the attack seriously and urged the President not to approve the sale of the FX airplane to Taiwan.

According to the ROC's point of view, Nationalist China would be in danger of losing its air and sea superiority in the Taiwan Strait if it was unable to procure the sophisticated FX jet fighters. The ratio of Taiwan's jet fighters to those of the PRC is roughly one to 15 (350 in Taiwan; an estimated 5,000 in the PRC). The F5E, Taiwan's best jet fighter, is roughly equivalent to the MIG-19, the mainstay of the PRC's air force. But the PRC also has several dozen MIG-21s, and is now manufacturing Spey engines in cooperation with Rolls-Royce for new high-performance fighters to be commissioned in the mid-1980s. The FX airplane that Taiwan wants to buy is about as sophisticated as the MIG-21. Although the armed threat to Taiwan's security from the PRC-controlled mainland appears minimal at present, it is evident that the current stability is due in part to the rough equivalence of forces on both sides of the Taiwan Strait. Since the lead-time involved between orders and deliveries of the FX airplane is about four years, some observers argue that Taiwan's need must be measured against the potential situation five years hence, rather than simply in the current context.[11]

Despite Taiwan's apparent need for the FX airplane to maintain its security, at the time of writing in mid-August 1981 the Reagan Administration has not yet made a final decision on this crucial issue in US-Taiwan relations. In other, less sensitive, areas of the Taiwan Relations Act, however, the Reagan Administration has begun to implement the Act fully, including the restoration of high-level contacts between US and Taiwan officials. In view of all this, the future of US-Taiwan relations is somewhat unclear, and the uncertainty surrounding these relations cannot be reduced until President Reagan makes his decision on the FX airplane sale to Taiwan.

A decision not to sell the FX airplane to Taiwan may have serious implications for the future course of US-Taiwan relations. Unless one believes that American policy should be designed primarily to please Peking, a position advocated by former Assistant Secretary of State for East Asian and Pacific Affairs Richard Holbrooke,[12] this issue should be evaluated within the context of the framework of normalization, international law, and its implications for other friendly countries in Southeast Asia.

As stated before, it is the PRC which violated one basic condition of normalization by opposing US arms sales to Taiwan, and which made this an issue in US-PRC relations. It has recently been reported that some PRC leaders believed there was at least a tacit understanding that the United States would eventually either drastically diminish, or suspend entirely, its arms sales to Taiwan after normalization. But there is no evidence that the United States ever agreed to such an understanding. President Carter denies making or authorizing any such promise, and US officials familiar with the negotiation record insist that no pledge of this sort appears.[13] Even assuming that such a tacit agreement ever existed, under US constitutional law such a secret understanding could not overrule the explicit provisions of the Taiwan Relations Act.

From the PRC's point of view, the FX sale is a case designed to test the will of the United States to protect the security of Taiwan. If the United States is overwhelmed by this issue, it will damage the morale and military strength of the ROC on Taiwan, and will also permit future PRC disruption of other aspects of US-Taiwan relations.

With respect to the international law issues involved, the United States does not recognize the PRC's claim to sovereignty over Taiwan, and therefore undertakes no legal obligation to support the PRC's attempt to unify Taiwan with the mainland. The PRC's argument that unification is an internal affair of China is a questionable contention for anyone with even an elementary knowledge of international law. The human rights of 17 million people can never be considered as purely an internal affair of any country.

The US attitude toward Taiwan would also have implications for relations with friendly non-Communist Southeast Asian countries. The warmth of the Reagan Administration toward Peking has already created some anxiety in the region. The Malaysian government recently was reported to have urged the United States to bear in mind that the PRC remains a major threat to the non-Communist countries of Southeast Asia.[14] If the United States continues to make concessions to the PRC on the Taiwan issue, the security of these Southeast Asian nations would be seriously endangered.

In conclusion, it is believed that the sale of the FX airplane to Taiwan is a crucial issue in US-Taiwan relations. If the United States does not consummate the sale because of PRC pressure, there will be increasing PRC interference in US-Taiwan relations until the United States is compelled ultimately to abandon Taiwan. Moreover, without the FX airplane Taiwan's military strength and morale will be severely undermined. This, in turn, would induce the PRC to adopt a more militant posture toward Taiwan, including the renewal of its armed threats against the island and its 17 million Chinese people.

NOTES

1. This essay was originally prepared for presentation at the annual meeting of the American Political Science Association, New York City, September 3-6, 1981.
2. "Huang Hua Reiterates China's View," *Beijing Review*, March 30, 1979, p. 8.
3. *New York Times*, August 26, 1980.
4. "Foreign Policy Priorities in Asia," Current Policy No. 274, US Department of State, 1981.
5. "Answering Readers' Enquiries, US 'Taiwan Relations Act,' " *Beijing Review*, January 12, 1981, pp. 9-11.
6. *See*, for example, Kenneth Lieberthal, "Dealing with China," *New York Times*, January 22, 1981.
7. Louis Henkin *et al.*, *International Law, Cases and Materials*, 1980, p. 165.
8. Tentative Draft No. 1, April 1, 1980, pp. 64-65.
9. *Ibid.*, pp. 66-67.
10. L. Oppenheim, *International Law*, vol. 1, eighth edition, edited by H. Lauterpacht (London: Longmans, Green, 1955), p. 873.
11. *See*, for example, Jeremiah Novak's letter to the *New York Times*, August 6, 1981.

12. See his "China Isn't Bluffing on the Taiwan Issue," *Wall Street Journal*, August 10, 1981. Holbrooke wrote the article after he had received two consulting contracts from the PRC. In this connection, see Michael Weisskopf, "Peking, A Popular Destination for Past and Present US Officials," *Washington Post*, August 16, 1981.

13. See Michael Weisskopf, "China Said to Believe US Reneged on Deal,"*Washington Post*, August 18, 1981; Don Oberdorfer, "Taiwan Worry Persists, Peking Hails Carter for Restoring Link," *ibid.*, August 26, 1981; and James P. Sterba, "Carter Says He and Peking Agreed on Sale of US Arms to Taiwan," *New York Times*, August 28, 1981.

14. See Henry Kamm, "Malaysia Stresses the China Threat," *New York Times*, August 23, 1981.

Edwin K. Snyder, A. James Gregor and Maria Hsia Chang, The Taiwan Relations Act and the Defense of the Republic of China (Berkeley: Institute of International Studies,1980), pp. 15-23, 116-117.

II. THE TAIWAN RELATIONS ACT

The process toward normalization of relations between the United States and the People's Republic of China, begun with the first visit of Henry Kissinger to Peking in July 1971, concluded with the announcement by President Carter on December 15, 1978 of the formal recognition of the PRC and the "derecognition" of the Republic of China on Taiwan. Commencing January 1, 1979 the United States would take up formal diplomatic relations with the PRC and cease to acknowledge the international legal existence of the ROC. The United States would thereafter recognize "the Government of the People's Republic of China as the sole legal government of China"; furthermore, it "acknowledged" the "Chinese position that there is but one China and Taiwan is part of China."[1] Consequent to this announcement the United States notified Taiwan that it was "terminating diplomatic relations and that the mutual defense treaty between the United States and the Republic of China is being terminated in accordance with the provisions of the treaty."[2]

It was within this context that the United States announced that it would "maintain cultural, commercial, and other unofficial relations with the people of Taiwan," and that it would continue to have "an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves." In contrast, the statement by the PRC that accompanied the joint announcement of the establishment of diplomatic relations maintained that "the way of bringing Taiwan back to the embrace of the motherland and reunifying the country . . . is China's internal affair"[3]—an internal solution that clearly does not preclude the use of military force.

Among the "other unofficial relations" the United States had promised to continue with the "people of Taiwan" was that of continued arms sales to the government of Taiwan—a central issue about which the United States and the PRC "agreed to disagree."[4] The United States maintained that it would continue to sell "selected defense arms" and follow-on support to Taiwan, and the officials of the PRC (on December 16, 1978) "made it clear" that they "absolutely would not agree to this."[5]

The Carter administration insisted that this arrangement would provide for both the security and prosperity of America's former allies on Taiwan. Their security would be assured by the sale of "arms of a defensive character" undertaken on "a restrained basis so as to promote peace and not interfere with peace in that area";[6] their prosperity would be assured by the maintenance of commercial relations through appropriate "unofficial" instrumentalities modeled on those employed in the "Japanese formula," which allowed mutual trade and investment opportunities to flourish without interruption after the derecognition of the ROC.[7]

It was with this half-articulated arrangement that the Administration approached the Congress with a bill (S. 245) to "promote the foreign policy of the United States through the maintenance of commercial, cultural, and other relations with the people on Taiwan on an unofficial basis, and for other purposes."[8] Sections 102 and 103 of the proposed bill mandated that "whenever any law, regulation, or order of the United States refers or relates to a foreign country, nation, state, government, or similar entity, such terms shall include, and such law, regulation, or order shall apply with respect to, the people of Taiwan." By implication the Administration was according the "people of Taiwan" *de facto* international recognition.

In international law de facto recognition is accorded those political entities characterized by a defined territory and population and under the control of a government that engage in international relations.[9] Article One of the Convention on Rights and Duties of States (49 Stat. 3097, T.S. 881 [1933]) specifically defines a "state" as an "international personality" possessed of the following attributes: (a) a permanent population, (b) a defined territory, (c) a government, and (d) a capacity to enter into relations with other states. Such a state, derecognized by one (or all) sovereign states, does not cease to have an "international personality." It would no longer have a *de jure* status, but it would clearly constitute a de facto reality.

The Administration proposed to continue relations with the ROC through an "unofficial" instrumentality, identified as the American Institute in Taiwan (AIT)—a nonprofit agency incorporated under the laws of the District of Columbia that would serve as a surrogate embassy. The AIT would be the American counterpart of the Japanese Interchange Association (ICA), an unofficial mechanism put together by the Japanese government to conduct bilateral relations with the ROC after their severance of formal ties. The Administration expected the Taiwanese to organize a similar "institute" to act as the link between the U.S. government and the now derecognized government of the ROC.

The remaining provisions of S. 245 spelled out the nature, financing, and circumstances of the AIT. It seemed clear that the Administration conceived that the creation of such an unofficial instrumentality—the functional equivalent of an embassy—would be adequate to the arrangement it proposed for ensuring the continued security and prosperity of Taiwan.

It soon became apparent that the members of the Senate Committee on Foreign Relations were not similarly convinced of the adequacy of the Administration's proposed arrangements. Senator Frank Church, the committee chairman, while applauding the Administration's initiative in extending diplomatic recognition to the PRC, reflected on the importance that the United States "must attach to the future security and well-being of the people of Taiwan"; in that regard, he said, the Administration's proposed legislation was "woefully inadequate."[10]

Quite independent of their own considered opinions, the members of the Committee on Foreign Relations were very much aware of the interest in the future of Taiwan evidenced by their colleagues and their constituents. Senator John Glenn, a member of the committee, said he was convinced that "millions of Americans and many Members of Congress still have a very prime concern for the security of Taiwan." Even Senator Alan Cranston, appearing as a witness and serving by and large as a spokesman for the Carter administration, felt it necessary to indicate that while he was "satisfied personally by what the President has done, . . . there are others who plainly are not in the Congress and in the country." Senator Robert Dole, appearing as a witness, repeated his contention of the preceding July that there was "strong popular support" for maintaining American security guarantees for the ROC, while Senator Dennis DeConcini maintained that "the American people are virtually unanimous in their concern for the fate of the people and the Government of Taiwan."[11] The recognition that there was widespread popular concern about the fate of the ROC, combined with Congressional irritation at not being consulted as the steps were taken toward normalization,[12] created a climate on Capitol Hill that augured significant changes in the Administration's proposed legislation.

As the Senate hearings progressed, it became abundantly clear that the security features of the proposed legislation—features that were all but absent from the Administration proposals—were the central concern of the committee members. In this regard, Senator Jacob Javits was the first to speak; he complained of the inadequacy of the proposed bill for providing substantive guarantees for the "security and integrity" of the territory of the Republic of China.[13] Senator Church, while indicating that in his judgment the Administration bill addressed itself only to the maintenance of "diplomatic and commercial relations," went on to argue that "apparently the Administration is of the belief that the bill should contain no provisions relating to the first question, the future security of Taiwan."[14] Even Senator Edward Kennedy, in this instance a spokesman for the Administration, contended that the United States shared an "exceptional relationship" with Taiwan that required special security assurances that would not apply to other Pacific nations.[15] Senator Dole then interpolated (without objection) that there was substantial unanimity about the Congressional concern for the security of Taiwan. He noted that the Republic of China had been a "long and faithful" ally, and that as a consequence Taiwan merited strong assurances against economic harassment and military threat. He insisted that it was in the security interests of the United States to allay the apprehensions of the other nations in the defense network of the Pacific concerning the firmness of American commitments by providing concrete guarantees for the survival of Taiwan.[16]

Senator Javits went on to rehearse the critical role played by Taiwan in the defense strategy of the Pacific. If Japan is the linchpin of the system, he argued, then South Korea and Taiwan occupy flank positions that are essential to Japan's defense.[17] The consensus seemed to be that, in the interest of America's Pacific security, the Congress was required to "state [its] commitment to provide a sufficiency of weapons to allow Taiwan to defend itself."[18] At that point, one of the academic witnesses called by the committee—Professor Parris Chang—applauded the Senate's evident resolve to act decisively on the security issue.[19] When Senator Joseph Biden asked, "What is the single most glaring deficiency [in the Administration's bill] that you believe the Congress can rectify?," Professor Chang responded, "Security on Taiwan."[20]

It was obvious to everyone involved in the deliberations concerning the proposed legislation that the Administration had contrived its bill in a manner that would give no offense to the authorities in Peking. Thus Bill S. 245 contained no references to the security of Taiwan or how the United States might deter any threats that might be mounted against the ROC. To compensate for this lack, Senator Church maintained, "a clear statement by the Congress of American policy relating to the future security of Taiwan is in order."[21]

What that statement would be was clarified in the course of the committee discussions. Senator Biden inquired of Senator John Danforth if as representatives of Congress it was necessary "to state our commitment to provide a sufficiency of weapons to allow Taiwan to defend itself?" Senator Danforth replied that he had no doubt that such was necessary—not only to provide credible assurances to the Republic of China, but also to maintain U.S. credibility as a defense partner to the rest of the world. In his judgment, Taiwan not only required "sufficient defensive weapons to assure their defense," but "should there be problems, they need those weapons to be furnished to them . . . on an urgent basis."[22]

It soon became clear that what was being attempted was the creation of a functional substitute for the mutual security treaty that would lapse in December 1979.[23] The Congress was attempting to communicate to the world that it was determined not to allow the use of force in any effort to resolve the issue of Taiwan.[24] An effort was being made to provide "an iron-clad *de facto* security arrangement that is mandatory and in [America's] interest,"[25]—something not easy to accomplish given the new U.S. relationship with the PRC. The evident intention of the legislation that would issue from Congressional deliberations was the preservation of "the essentials of [America's] existing relations with Taiwan."[26] This included maintaining the principle that "an armed attack in the West Pacific area directed against the territories of [either the United States or the Republic of China on Taiwan] would be dangerous to [America's] own peace and safety, and . . . that [the United States] would act to meet the common danger in accordance with its constitutional processes."[27] The legislation that would issue from the Congress was intended to offer just such a guarantee—the functional equivalent of a security treaty.

Because the Carter administration was preparing to allow the existing security treaty with the ROC to lapse, Congressional concern was expressed that the defense capabilities of Taiwan be rendered as "self-sufficient as possible." In response to that concern, General David Jones, Chairman of the Joint Chiefs of Staff (JCS), maintained that the Administration's "estimates are that Taiwan does have the capability to deter any attack by the People's

Republic of China now and for a considerable time into the future."[28]

This exchange revealed a central issue that was not resolved in the Congressional deliberations—i.e., what would constitute "self-sufficiency in [Taiwan's] defensive capabilities."[29] In the judgment of the Administration spokesmen from the Department of Defense (DOD) and the Department of State, Taiwan currently had enough arms to deter any attack from the PRC.[30] The Senate committee, however, had clear misgivings. The Administration had spoken only of "selective" arms transfers, but the Senate committee wanted to commit the United States to "sufficiency" as distinct from "selectivity." Harold Brown, the Secretary of Defense, urged that no provision for the *sufficiency* of arms be included in the Congressional legislation because such an affirmation was not "necessary."[31]

The members of the Senate committee remained unconvinced, believing that the DOD and the State Department had presented a "best-case" assessment of Taiwan's circumstances. It was argued that the PRC would not attack Taiwan because it was involved in the "four modernizations"—a massive developmental program that required American and Japanese technological, trade, and financial support. As a consequence (the argument went), Taiwan would not be attacked, because such an attack would jeopardize the assistance necessary for the ambitious program of development the PRC had undertaken. Since there would be no attack, *any* arms currently possessed by the ROC would be "sufficient." Warren Christopher, Deputy Secretary of State, could therefore argue that the security of Taiwan was not in jeopardy and needed no special emphasis in the anticipated legislation.[32]

Senator Charles Percy recognized the unusual character of the Administration's presentation. Usually the DOD and the State Department presented a worst-case assessment, but in this instance the spokesmen for the executive branch seemed disposed to concentrate on a best-case portrayal. It was the obligation of the Senate, therefore, to consider the security of the ROC in terms of the worst-case alternatives.[33] The Senate must consider not only the possibility of an amphibious invasion of Taiwan (a low-order probability), but also the various alternative options the PRC might choose to exercise—everything from blockade to boycott to simple economic harassment.[34]

For the Administration the issue of the normalization of relations with the PRC was almost exclusively a question of how the United States might best exploit the tensions between the Soviet Union and the PRC to its own advantage. The border conflict between the two powers was tying down a considerable portion of the available ground forces and tactical aviation of the Soviet Union to the obvious security advantage of the United States.[35] In exchange, so to speak, for this Chinese contribution to U.S. security, the Administration was evidently prepared to accommodate the PRC by avoiding any mention of the security of the ROC in its proposed legislation relating to Taiwan. For the Senate, on the other hand, the crucial question was how to satisfy the clear concern of the American people for the security of the people of Taiwan and maintain the credibility of America's defense commitments in the Far Pacific.

The Senate gave consideration to the many ways other than direct military attack that the PRC could bring pressure on the people of Taiwan in an effort to subvert the integrity of the Republic of China.[36] Given its maritime superiority, the PRC would be more likely to embark upon a naval blockade than attempt an amphibious assault on the defended coasts of Taiwan.[37] Michael Armacost, Deputy Assistant Secretary of Defense for East Asian and Pacific Affairs, was compelled to admit that the PRC had "the capacity to attempt a naval blockade" of the Republic of China.[38] The Senate also considered the possibility that the PRC might attempt a boycott of Taiwanese commerce or harassment of its air traffic.[39] As a consequence of such considerations, the Senate decided to employ language that would go "very far indeed"[40] in attempting to provide for the security of Taiwan.

The Senate sought to provide explicit assurances for the security and integrity of the ROC and its social and economic system. Its proposed legislation would specify that the ROC should have "sufficient" defensive capacity to resist *any* efforts at coercion exercised by the PRC aimed at preventing a peaceful resolution of the issues between the ROC and the PRC. The Senate proposed to provide the ROC not only with legislative assurances of American concern, but also with a military capability sufficient to resist direct military assault.

While the determination of what would constitute "sufficient" arms was to be left up to the United States,[41] there was a clear commitment to provide military equipment adequate to protect the territorial, commercial, and communications integrity of the ROC. Senator Percy expressed this commitment by equating American concern for the security of Taiwan with its concern for the integrity of Berlin and Western Europe. Berlin, Western Europe, Israel, and Latin America are areas of "vital concern" to the United States, and in the judgment of the Senate, concern for Taiwan was to be no less vital.[42]

By the time the Senate was prepared for a markup of the Congressional version of the Administration bill, the representative of the State Department, Warren Christopher, had conceded that the Republic of China had been accorded de facto recognition by the executive branch.[43] While the United States had recognized the PRC as the "sole legal government of China," it had not taken the position that Taiwan constituted only a province of China.[44] Thus, since the ROC was the de facto government of Taiwan and the Pescadores, the United States owed responsibility to and shared mutual security interests with that government.[45]

It had become clear that the Congress did not share the Administration's view of Taiwan's situation vis-à-vis the PRC. Administration witnesses had clearly signalled that the State Department would be hesitant in granting the arms transfers considered necessary by the Congress to deter the various threats against the ROC that might be mounted by the PRC.[46] What would be required to offset that reluctance would be some stipulated procedures for periodic situation review; that much even Senator Kennedy had granted.[47] If Congress was to assure the security of Taiwan, it would require periodic review of Administration policy.

What resulted from all this was the Taiwan Relations Act—Public Law 96-8, April 10, 1979—which was implemented by executive order in June 1979 by the President.[48] The legislation stipulated that the President, by terminating diplomatic relations with the ROC, had rendered it necessary for the Congress to enact provisions that would assist in maintaining the "peace, security, and stability in the Western Pacific . . . by authorizing the continuation of commercial, cultural and other relations between the people of the United States and the people of Taiwan." The act went on to state that "peace and stability in the area are in the political, security, and economic interests of the United States" as well as matters of "international concern." Furthermore, "any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes," would constitute "a threat to the peace and security of the Western Pacific area and of grave concern to the United States."

To give substance to these declarations of policy, the act provided for the transfer of arms "of a defensive character" to

Taiwan, and insisted that the United States maintain the "capacity to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people of Taiwan." Moreover, the provision of arms to Taiwan would be of such character and quantity to "maintain a sufficient self-defense capability." That sufficiency would be jointly determined by the President and Congress in accordance with procedures established by the law. Finally, the President was directed to inform Congress of any threat to the security of Taiwan in order to undertake any action that would constitute an "appropriate" response. Sections 12 and 14 provided review provisions to assure the proper implementation of the specified policies of the United States concerning both the security and the commercial interests of the United States and Taiwan.

By the Summer of 1979, the U.S. government had enacted into law legislation designed to effectuate the policies jointly formulated by the executive and legislative branches. Explicitly built into that legislation were provisions for the defense of what had hitherto been known as the Republic of China on Taiwan—now the de facto political authority governing the people of Taiwan and the Pescadores. It remained to be seen how substantial such provisions might be and just what security they would guarantee.

The intentions of Congress in the legislative history of the Taiwan Relations Act are clear. What is not clear is what relation any or all of these bear to the realities with which the Republic of China must contend for the foreseeable future. It is to that complex consideration that we now turn.

Footnotes

Chapter II

1. See Appendix A below: "Joint Communique on the Establishment of Diplomatic Relations between the United States and the People's Republic of China."
2. See Appendix B below: "United States' Statement."
3. See Appendix C below: "China's Statement."
4. See Harding, p. 10.
5. Testimony of Ray S. Cline, in *Taiwan: Hearings Before the Committee on Foreign Relations, United States Senate, Ninety-Sixth Congress* (Washington, D.C.: GPO, 1979) [hereafter referred to as *Taiwan*], p. 582.
6. Harding, p. 14.
7. David Nelson Rowe, *Informal "Diplomatic Relations": The Case of Japan and the Republic of China, 1972-1974* (Hamden, Conn.: Shoe String, 1975).
8. For the full text of S. 245, see *Taiwan*, pp. 3-10.
9. Victor Li, *De-Recognizing Taiwan: The Legal Problems* (New York: Carnegie Endowment, 1977), p. 11.
10. *Taiwan*, pp. 1, 11.
11. *Ibid.*, pp. 45, 384, 406, 414; see A. Doak Barnett, *China Policy* (Washington, D.C.: Brookings Institution, 1977), pp. 14-15.
12. See the comments by Senators Frank Church, Richard Lugar, Robert Dole, and Dennis DeConcini in *Taiwan*, pp. 85, 358, 384, 397.
13. *Ibid.*, p. 11.
14. *Ibid.*, p. 23.
15. *Ibid.*, p. 384.
16. *Ibid.*, pp. 398-406.
17. *Ibid.*, p. 421.
18. *Ibid.*, p. 427.
19. *Ibid.*, p. 437.
20. *Ibid.*, p. 483.
21. *Ibid.*, p. 416.
22. *Ibid.*, p. 427.
23. See comments by Professor Parris Chang, *ibid.*, p. 433.
24. See comments by Senator DeConcini, *ibid.*, p. 415.

25. See comments by Senator Biden, *ibid.*, p. 39.
26. See comments by Senator Church, *ibid.*, p. 70.
27. Senator Church reading from the text of the Mutual Security Treaty between the United States and the ROC, *ibid.*, p. 374.
28. See comments by Senator Glenn and the response of General Jones, *ibid.*, p. 740.
29. See the exchange between Senator Javits and General Jones, *ibid.*, pp. 748-49.
30. See comments of Warren Christopher, Deputy Secretary of State, *ibid.*, pp. 16, 20.
31. See exchange between Senator Stone and Secretary Brown, *ibid.*, p. 51.
32. *Ibid.*, p. 24.
33. *Ibid.*, p. 490.
34. See comments of Senator Javits, *ibid.*, p. 28.
35. See comments of Secretary Brown, *ibid.*, p. 31.
36. See prepared statement of Senator Dole, *ibid.*, p. 401.
37. See prepared statement of Professor Robert Scalapino, *ibid.*, p. 625.
38. *Ibid.*, p. 674.
39. See comments of Senator Percy, *ibid.*, p. 72.
40. See comments of Senator Church, *ibid.*, p. 779.
41. See comments of Senator Javits, *ibid.*, p. 794.
42. *Ibid.*, p. 776.
43. *Ibid.*, pp. 16-17, 20; see exchange between Senator Stone and Herbert J. Hansell, Legal Advisor of the Department of State, *ibid.*, p. 89.
44. *Ibid.*, p. 88.
45. See prepared statement of Professor Victor Li, *ibid.*, p. 152.
46. See comments by Robert P. Parker, *ibid.*, pp. 490-91.
47. *Ibid.*, p. 385.
48. See Appendix D below: text of *Taiwan Relations Act.*

PREPARED STATEMENT OF HAROLD C. HINTON

Mr. Chairman and Members of the Subcommittee:

Since World War II the Far East has often been a source of controversy in this country, and sometimes one between the executive and Congress. The basic reason is that although the United States emerged from the war seemingly supreme in the Pacific, the adjacent land mass of Asia soon became a major theater of Communist expansion, and the first victim was the Republic of China, which is the United States' oldest ally in Asia and had, and still has, considerable moral and political support here. Critical points in the development of the problem from the American perspective were the so-called loss of China, its disruptive impact on American politics, President Truman's abandonment of South Korea followed by his decision to defend it when attacked, without consulting Congress the consensus decision to treat the People's Republic of China as a threat and adversary comparable to the Soviet Union and supposedly dominated by it, the gradual erosion of this consensus and the perception of the Sino-Soviet dispute, the decision of the Johnson administration to commit American combat forces to Vietnam, and the prevention by Congress of any retaliation by the Nixon administration for Hanoi's massive and predictable violations of the Paris Agreement, which resulted in the takeover of Indochina and the expulsion of the boat people.

One of the unfortunate results of American overinvolvement and policy blunders in Asia, and the obsession with Vietnam in particular, was that they tended to distract our attention from the massive build-up of Soviet strategic and conventional forces that began not long after the Cuban missile crisis and still continues. The first American policymakers to try seriously to grapple with this problem were President Nixon and Henry Kissinger, and they found a potentially valuable lever at hand in the Sino-Soviet military confrontation that began in early 1969 and is still going on. But if the United States was to have any chance of working with China in a way that might help to restrain the Soviet Union, some erosion of the post-1949 American commitment to Taiwan was regrettably inevitable. This point has been grasped by the last four administrations.

On the other hand, it is a point whose validity is debatable and has been debated, on several grounds. The strong continuing support for Taiwan, on Capitol Hill and elsewhere, has been a major reason for the secrecy and timing of several executive moves on China and Taiwan, such as the first Kissinger visit to China in 1971, President Carter's normalization of relations with Peking during the 1978 Congressional Christmas recess, and President Reagan's decision during the 1981 Congressional Christmas recess against the so-called FX fighter for Taiwan.

On the Congressional side, the main related move to date has been the Taiwan Relations Act of 1979, which took account of the termination of diplomatic relations with Taiwan, and apparently also of the abrogation of the mutual defense treaty with Taiwan even though the executive's right to abrogate it without consulting Congress was not settled in the courts until the end of that year. As everyone knows, the act did not merely permit but required the sale of "defense articles and defense services" to Taiwan as might be judged necessary more or less jointly by the President, Congress, and our military authorities. Since this question has now become an important issue, a review of its history may be useful, on the theory that a little history never hurt anyone, although too much can bore anyone, except presumably a historian.

Even though Peking has never been willing unconditionally to renounce the use of force against Taiwan, the issue of American arms sales to Taiwan was not mentioned in the Shanghai Communique of 1972, which dealt instead with broader questions. During the 1979 negotiations on normalization, the Carter administration indicated that it would continue to sell Taiwan "selected defensive" arms after normalization. Because of its concern over the threatening situation in Indochina and Hanoi's recently tightened ties with Moscow, Peking decided to go ahead with normalization in December, but Premier Hua Guofeng stated at a press conference on December 16 that his government was still completely opposed to continued American arms sales to Taiwan, which in Peking's eyes tend to stiffen Taipei's resistance to talks on unification.

Although the communique on normalization did not mention the arms sales issue, President Carter announced at that time that no new sales, as distinct from the fulfillment of previous commitments, would be made during 1979, while the mutual defense treaty with Taiwan lived out its last year; this was the first major breach in the policy of selling arms to Taiwan. When he resumed such sales in 1980, President Carter apparently viewed them more as a discretionary executive act than as a fulfillment of the Taiwan Relations Act, which he would have preferred not to see contain any commitment to Taiwan's secuirty or to arms sales. Peking predictably protested the arms sales of 1980 to Taiwan, but not with much force, probably because it was too concerned over the recent Soviet invasion of Afghanistan to be very difficult with the only possible adequate counterweight to Soviet "hegemonism."

In 1981 Peking's teeth were set on edge by President Reagan's declared fondness for Taiwan, even though it approved of his anti-Soviet views. It was apparently greatly irritated by what it took to be an American effort, at the time of the Haig visit in June 1981, to bribe it into tolerating arms sales to Taiwan, including perhaps the FX when developed, by the promise, which might never be fulfilled, of American arms for China itself. In any case, in mid-1981 Peking began to take a more anti-American line, including a tougher stand on arms for Taiwan, than it had for several years previously, to stress its role as a Third World country opposed to both the superpowers, and after early 1982 to make some conciliatory gestures to the Soviet Union. The last of these moves may have been influenced by President Reagan's decision not to authorize the FX for Taiwan, which he regarded as a concession to Peking but which was viewed there as not good enough but it was accompanied by another, unacceptable, decision to continue coproduction of the F-5E on Taiwan.

These developments have been disturbing to those Americans who favor cooperation with Peking for one reason or another, and since the Nixon administration they have had more influence on the executive branch's thinking than others tending to stress the commitment to Taiwan have had. During talks with Chinese Foreign Minister Huang Hua in October 1981, and again in a letter to Premier Zhao Ziyang in April 1982, the White House indicated that it was willing to reduce, and ultimately terminate, arms sales to Taiwan, as long as Peking continued not to disturb the stability that has reigned in the Taiwan Strait for the past several years, although not to commit itself to a definite cutoff date. As far as the public record shows, this concession was made without effective advance consultation with Congress, and the same is true of the joint communique of August 17, 1982, which spells out this position even though Peking still has not given an unconditional pledge not to use force against Taiwan.

Peking has said in the past that Taiwan could keep its own armed forces even after unification hypothetically takes place and has never listed a continuation of American arms sales to Taiwan among the conditions under which it has claimed it would attack the island. It could logically be concluded that Peking has recently been overstating its concern over the issue for effect, and that the United States may have given ground on this issue more easily than it needed to.

On the other hand, the debatable merits of the policy issues involved do not necessarily determine the extent to which Congress ought to have involved itself, and to be involving itself, in them. The initiative in the field of foreign policy has belonged to the executive by constitutional tradition, at least down to the Vietnam War. This was essentially the point made by the United States Court of Appeals when it upheld President Carter's right to terminate the mutual defense treaty with Taiwan without concurrent action by Congress: "The subtleties involved in maintaining amorphous relationships are often the very stuff of diplomacy--a field in which the president, not Congress, has responsibility under our Constitution." It is worth remembering that the Supreme Court refused to review this decision and so let it stand.

The United States is trying, under considerable difficulties, to work out a strategic relationship with China to help cope with an expansionist superpower that has been allowed to build up a degree of strategic superiority and a much greater level of conventional superiority on land. It may prove to be impossible for one reason or another to achieve such a relationship, and even if achieved it may not prove to be very effective. But the attempt needs to be made, and I hope that if it fails, Congressional action will not be one of the reasons for that failure.

This does not mean that the United States should abandon Taiwan, for example by setting a firm cutoff date for arms sales and repealing the Taiwan Relations Act, as Peking is demanding. But it does mean that the problems that the executive will inevitably encounter in the process of trying to work out a viable relationship with China, while continuing to make certain that it does not coerce Taiwan, ought not to be unnecessarily, let alone fatally, complicated by Congress. The absence of coercion, which has always been the core of American policy toward Taiwan, cannot be reliably achieved by arms sales, since there is no realistic way in which Taiwan can be rendered permanently able to defend itself against a determined and prolonged attack from the mainland unless it has external support, which can come only from the United States. It seems to me that the Taiwan Relations Act at least suggests the possibility of such support if needed and in this way provides a valuable partial substitute for the lapsed mutual defense treaty, as it does for the former diplomatic relationship.

The most useful role Congress can plan in this connection, in my judgment, is not to prod the executive about arms sales but to stand ready if asked by the executive to pass a joint resolution authorizing the use of American forces in defense of Taiwan. The relevant documents are not the Tonkin Gulf Resolution, but the Taiwan Relations Act and the Nixon Doctrine, which can be considered to cover Taiwan. In realistic terms, a Chinese attack on Taiwan is not very likely, but the chances are kept low not so much by Taiwan's defensive capabilities as by the possibility of serious international repercussions, of which American intervention is one of the least desirable in Peking's eyes, second only to a Soviet attack timed to take advantage of Chinese involvement in the Taiwan Strait.

Senator **East**. I wish to thank you again for allowing us to continue this dialog and build a record for what I believe is an important and a vital issue.

[Whereupon, at 1 p.m., the subcommittee adjourned, subject to the call of the Chair.]

TAIWAN COMMUNIQUE AND SEPARATION OF POWERS

MONDAY, SEPTEMBER 27, 1982

U.S. Senate,
Subcommittee on Separation of Powers,
Committee on the Judiciary,
Washington, D.C.

The subcommittee met, at 10:15 a.m., in room 2228, Dirksen Senate Office Building, Hon. John P. East presiding.

Staff present: James McClellan, chief counsel and staff director; William Miller and James Sullivan, counsels; and Debra Freshwater, chief clerk.

OPENING STATEMENT OF SENATOR JOHN P. EAST

Senator East. I would like to convene this hearing of the Subcommittee on Separation of Powers.

I would like to welcome our witnesses this morning and others that are here so that we can pursue a very important matter. Before I turn to witnesses, I would like to review what it is we are doing here. We are really having two separate hearings. Last week we had a series of witnesses coming mostly from the academic community, though we did have Senator Steve Symms, a distinguished member of our own body; former Senator Richard Stone; and a statement from Representative Gerald Solomon. In addition, we had Dr. Ray Cline, senior associate, Georgetown Center for Strategic and International Studies; Ambassador Leonard Unger, former Ambassador to the Republic of China on Taiwan and now with the Fletcher School of Law and Diplomacy, Tufts University; Prof. James Gregor, Institute of International Studies, University of California at Berkeley; and Prof. Harold Hinton, George Washington University.

SEPARATION OF POWER PROBLEM

They were here to help those of us in the Senate explore this question of whether there is not a very troublesome conflict between the recent communique issued by the President and the Taiwan Relations Act. We believe it presents a serious problem on separation of power.

I do not profess, of course, to speak for other Members of the Senate. But I would point out, just as an example, that Senator Symms, of course, has been here expressing his concern. Senator Kasten asked that we enter a statement of his into the record. He certainly shares our concern. Senator Goldwater has submitted a statement and has noted his concern. I would note publicly that Senator John Glenn of Ohio has also indicated his concern on this matter.

So there is fairly broad interest in it which cuts across party lines and is not merely the focus of a particular political party or a particular point on the political spectrum in American politics.

One thing that the witnesses last week did seem to agree upon was that they clearly saw a conflict between the communique and the Taiwan Relations Act. The two documents seemed to be saying very different things.

There seems to be some variance on what that means in terms of near-term or long-term policy implications, but there was little question that we have a serious and obvious divergence and that these matters need be explored at some length.

TAIWAN RELATIONS ACT

The Taiwan Relations Act of 1979 passed by the U.S. Congress as an entity, as an institution in its lawmaking capacity, was meant to be and is now a part of the general change of position as regards the executive branch vis-a-vis Communist China. At that time, we broke diplomatic relations with the Republic of China [Taiwan]. We also broke our mutual defense treaty with Taiwan. There was a great deal of concern in Congress about that, and, in response to it, the Taiwan Relations Act was enacted. The purpose of the act was to establish clearly that from a congressional standpoint the normalization of relations with Communist China at the expense of non-Communist China, to wit Taiwan, would not jeopardize the defense capability of Taiwan. That was to be a matter that rested independently of the conduct of Peking or any other country. It was a matter to be resolved between Taiwan and the United States. Clearly the whole thrust of the act was upbeat—to insure the defense of Taiwan. Despite our breaking diplomatic relations and breaking the mutual defense treaty of 1954, it would be clearly understood by all parties that there would be no jeopardy to Taiwan's military defenses.

I would like to quote from section 3 (a) and (b) of the Taiwan Relations Act:

> The United States shall make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

That is (a).

Section (b) states:

> The President and the Congress shall determine——

note both branches as institutions are involved

> The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their——

meaning the President and the Congress

> judgment of the needs of Taiwan, in accordance with the procedures established by law. Such determination of Taiwan's defense needs shall include review by the U.S. military authorities in connection with recommendations to the President and to Congress.

Certainly, I think any fair reading of that section would indicate that it is between Taiwan and the United States, more particularly the President and the Congress and Taiwan to determine what the defense needs of Taiwan are vis-a-vis any particular or potential enemy. This is not merely confined, I might note, to Communist China. The act does not say that Taiwan's defense needs shall be weighed solely in the context of a threat by Communist China.

On August 17, 1982, the joint communique was issued from the State Department.

Paragraph 6 turns out to be quite critical, as does paragraph 7 to a lesser extent. Paragraph 6 says this:

> Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution.

Paragraph 7 begins, "In order to bring about, over a period of time, a final settlement of the question of the United States arms sales to Taiwan * * *." Again the communique refers to a "final" settlement.

Now, the gentlemen at the last hearing, and I would certainly put myself in their camp, see a clear conflict between the communique and the Taiwan Relations Act. The act indicates that we would meet the legitimate defense needs of Taiwan in perpetuity, and that this would be done independent of the conduct of others. Again the purpose of the act was to insure Taiwan that it need not fear for its own security because of the normalization of relations between the United States and Communist China.

The record will show that that is the spirit in which Congress enacted the Taiwan Relations Act. Now, certainly, as you look at paragraphs 6 and 7 of the joint communique, there is no question that the language here states a very different proposition. It does not suggest independent judgment in perpetuity. It says, "does not seek to carry out a long-term policy," thus indicating a terminal point, and "its arms sales to Taiwan will not exceed current levels, quantitatively or qualitatively," thus putting a cap on them. And then we are told, "leading over a period of time," which is not spelled out, "to a final resolution." "Final resolution" is somewhat of a disconcerting term, but it indicates, does it not, termination. And it uses the term "final settlement" in paragraph 7.

There is a divergence here between what Congress has said and what the communique says. I think any college freshman English student, if asked to take those two documents and write an essay as to whether they were compatible, would certainly have to reason that they are not. The two say very different things. They set out very different policy postures, and I would like to note that the new party to all of this, by virtue of the communique, namely Communist China, interprets the communique, and understandably so, in terms of a literal reading of it, to mean that there will be a permanent phaseout of arms sales to Taiwan. China has interpreted the document as a pledge by Washington that military sales to Taiwan will be terminated.

For example, U.S. News & World Report, August 30, 1982, reports the Chinese Government as stating, "The final resolution referred to here certainly implies that the United States arms sales to Taiwan must be completely terminated over a period of time."

There are other quotations here that I could add. So they understand it. Any fair reading of it leads to this understanding, I would submit. But the Taiwan Relations Act has not been amended or changed, nor has Congress been asked to consider such changes.

Hence, it is troublesome to many Members of the Senate who think the question we have raised is not frivolous and is not merely an exercise in public relations. I do not raise the question as chairman of the subcommittee—I do, of course, raise it as a matter of separation of power—but as a Member of the Congress and of the Senate. I think I speak for a number of people who are deeply concerned about the direction of this new policy course, aside from the fact we have not been consulted on it.

THE "RATCHET EFFECT"

Is it a wise course? We are told by Mr. Powell Moore, legislative aide from the Department of State, it is a statement of intention by the President on behalf of the executive branch. It is a continued part of what I would call a "ratchet effect." We continue to isolate Taiwan and to downgrade them, eventually making them vulnerable, while upgrading our relations with Red China.

I might note there are ample quotations here from Peking, indicating that they do not consider themselves bound in the long term by "peaceful means." And even if they said they did, would the most naive student of international affairs trust their judgment or statement on this matter?

Certainly the history of totalitarian dictatorship in the 20th century, be they Nazi or Communist, makes clear that their word is not to be depended on, that they will not honor international agreements and treaties. Only the naive accept that sort of proclamation. This is what has troubled a number of us, and this is the issue we are pursuing.

Now, I appreciate the witnesses coming this morning and want to give them an opportunity to explain to us if there is a conflict here. If so, does it not raise serious problems of separation of power and change policy direction?

We might even touch on whether that is even a desired change of policy and whether Congress ought not be included in this.

I welcome Mr. Davis Robinson, legal adviser to the U.S. Department of State, and Mr. Theodore Olson, Assistant Attorney General, Office of Legal Counsel of the Department of Justice.

I believe it would be helpful to me, gentlemen, if we might first let both of you make your comments. Then I can come back to some discussion with you.

Mr. Robinson, if you would like to lead off, please.

STATEMENTS OF DAVIS R. ROBINSON, LEGAL ADVISER, DEPARTMENT OF STATE, ACCOMPANIED BY TERENCE FORTUNE, ASSISTANT LEGAL ADVISER FOR EAST ASIAN AFFAIRS; AND THEODORE OLSON, ASSISTANT ATTORNEY GENERAL, OFFICE OF LEGAL COUNSEL, DEPARTMENT OF JUSTICE

Mr. ROBINSON. Fine. Thank you very much.

I would like to, if I might, read my statement. It is fairly abbreviated.

It is a privilege to appear before you this morning. I am here in response to the Chairman's letters of August 20 and August 24 to the Departments of State and Defense, the U.S. Arms Control and Disarmament Agency and the National Security Council.

I am accompanied on my right by my colleague, Theodore Olson, Assistant Attorney General, Office of the Legal Counsel of the Department of Justice. On my left by Mr. Terence Fortune, Assistant Legal Adviser for East Asian Affairs.

The chairman has expressed concern that the joint communique issued by the United States and the People's Republic of China on August 17, 1982, was an exercise of unilateral executive authority without legally sufficient congressional participation and, therefore, raises a question of separation of powers. After careful review and full consultation with the Department of Justice, I must respectfully disagree with his view.

At the outset, it is important to define with precision the legal character of the August 17 communique. It sets forth parallel and interrelated statements of policy by the United States and China. It is not an international agreement and thus imposes no obligations on either party under international law. Its status under domestic law is that of a statement by the President of the United States of a policy which he intends to pursue. Like any other Presidential policy, it must be executed in full compliance with all relevant laws. The President has made clear his firm intention to do so.

It is beyond question that the President possesses full constitutional authority to issue statements of the foreign policy which he intends to pursue. Such statements of the Executive's policy are recognized as being at the heart of the Executive's prerogatives in the conduct of U.S. foreign relations. The communique is an example of such a statement of policy and that is clearly within the authority of the President.

The issuance of the communique did not encroach on any constitutional or statutory power of the Congress. The chairman's August 20 and 24 letters suggest that the Taiwan Relations Act limits or otherwise regulates the President's authority to issue expressions of Executive policy with respect to Taiwan in the absence of some action by the Congress. Upon careful further consideration, I have reconfirmed our earlier conclusion that the act imposes no requirements upon the President that have not been satisfied.

Section 3(b) of the act provides that determinations with respect to the provision of defense articles and supplies to Taiwan will be made by the President and Congress "in accordance with procedures established under law." The Taiwan Relations Act itself specifies no procedures for joint action by the Congress and the President.

Section 14 of the act vests primary oversight responsibility for implementation of the act in the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. Such oversight includes consultation with the executive branch regarding U.S. arms sales to Taiwan in implementation of section 3 of the act.

During the months preceding the issuance of the joint communique, there were regular and extensive discussions with both of those committees. During these consultations, the committees were informed of the substance of the communique and given an opportunity to express their views to the administration. Both committees have held hearings on this issue. In the hearing on August 18, 1982, before the Senate Committee on Foreign Relations, Chairman Percy expressed his satisfaction with the level of congressional participation in the matter. Thus, Congress has been appropriately involved in the manner contemplated by the Taiwan Relations Act.

The only procedure established by other statutes that is pertinent to arms sales to Taiwan is that contained in the Arms Export Control Act with which the President has fully complied.

POLICY OF PRESIDENT

The Taiwan Relations Act is and will remain the law of the land unless amended by the Congress. Nothing in the joint communique obligates the President to act in a manner contrary to the act or, conversely, disable him from fulfilling his responsibilities under it. Let me reiterate that the communique is a statement of the policy which the President intends to follow. The implementation of that policy remains fully subject to the requirements of all relevant Federal statutes. The President cannot and has not purported to modify the terms of a statute enacted by the Congress.

It is important to distinguish carefully between issues of law and questions regarding the President's policy. Policy considerations arising from the communique have been explored thoroughly by the Senate Foreign Relations Committee and the House Foreign Affairs Committee. It is neither my intention nor, indeed, my role to address such policy questions today. I am appearing in response to the committee's concern regarding issues of separation of powers. The issuance of the communique was within the traditional power of the President to announce the Executive's policy in the field of foreign affairs. The Taiwan Relations Act does not purport to restrict this power. Provisions of the act which contemplate coordinate action by Congress and the President have been satisfied. There have been full consultations with the Senate and House committees having primary oversight responsibility under the act. In my view, therefore, no question involving the separation of powers arises.

In order to state the position of the executive branch in the clearest and most authoritative manner, I would like to conclude my remarks by quoting a portion of the President's statement of August 17 announcing the issuance of the communique, and I quote:

Regarding future U.S. arms sales to Taiwan, our policy set forth clearly in the communique is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the Act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful.

I will be glad, Mr. Chairman, to answer any questions which you may have. Mr. Olson is here with regard to any specific questions regarding the separation of powers. I will attempt, as best I may, to answer any questions which you may have regarding the Taiwan Relations Act.

Thank you very much, Mr. Chairman, for this opportunity to be here.

Senator EAST. Thank you, Mr. Robinson.

Mr. Olson?

Mr. OLSON. Mr. Chairman, I have no written statement.

My office and the Department of Justice concur in the legal conclusions articulated by Mr. Robinson. We have examined the Taiwan Relations Act and the joint United States-China communique and relevant portions of the announcement of the communique. We do not believe the communique violates the Taiwan Relations Act or the Constitution or any other provisions of the laws of the United States.

CONFLICTING DOCUMENT

Senator EAST. Let us start with this proposition, gentlemen. You heard me earlier read those two statements, the communique and the Taiwan Relations Act, and you both are obviously skilled and able attorneys. Be candid with me. Do you not think that any fair reading of them reveals a conflict?

Mr. ROBINSON. Mr. Chairman, I would respectfully not subscribe to that view. I believe if you read paragraph 4 and paragraph 5 of the communique, and you look at paragraph 6, you have the result that what is involved here is a statement of policy. The policy takes into account, it has in mind, the foregoing statements, which include the fundamental policy of the People's Republic, of striving for a peaceful solution. Section 3 (a) and (b) of the act, in our view, have been fully complied with.

I might say in this regard it might be useful to give a quote from Assistant Secretary Holdridge who had the opportunity to testify before the House Foreign Affairs Committee on August 18, 1982. Let me just quote a sentence from Assistant Secretary Holdridge: "Our guiding principle is now and will continue to be that embodied in the Taiwan Relations Act; the maintenance of a self-defense capability sufficient to meet the military needs of Taiwan but with the understanding that China's maintenance of a peaceful approach to the Taiwan question will permit gradual reduction in aims sales."

CONCLUSORY OPINIONS

Senator EAST. Let me pursue the point a little bit further, Mr. Robinson.

Your statement reminds me of the problem that law professors always have, and I am sure you are aware of it. In answering a good question in the law, it is not enough simply to state the conclusion that it is thus and so without offering some explanation of it. I know you are trying to give me some explanation. That is the question before the House, "Is there not a conflict," and you say, "No, there is not a conflict," which is to me simply stating a conclusion.

Another question is, "Does it involve the separation of powers." "No, it does not involve the separation of powers." In short, we simply state conclusions which is, as we have all learned, not good law school exam practice. That is, one wants a good rationale for them.

Now, law always trains one to give very careful textual analysis to material, to the plain meaning of the words, matters that might be implied reasonably so. I am not accusing you of being disingenuous, but it strikes me that the Departments of State and Justice tried to cast this in the most narrow legal terms and then not really to reason very extensively or in a very probing way, but simply to proclaim a result, in other words, the wish that follows the thought. To believe that they could escape unscathed with that kind of approach, I think, is somewhat to glide over the surface of the problem.

Let me just try to talk a little commonsense on this thing. The Taiwan Relations Act which the President of the United States, President Carter, approved, was a part of an overall settlement at that time. He broke diplomatic relations, which the executive branch can do. There was some question as to whether he could break the mutual defense treaty, but Congress approved it. That was pushed aside and what was added was the Taiwan Relations Act so that Congress would feel comfortable. Notwithstanding the normalization of relations between the United States and Communist China, there would be an independent commitment by this country, the President and the Congress together, to Taiwan. The act spells out in a distinct, categorical way that the defense needs of Taiwan were to be considered independent of any other consideration. The U.S. Government, namely the President and the Congress, would determine in consultation with Taiwan what was adequate.

I will underscore this again. Even assuming for purposes of discussion what you say is true, that there are no "war-like intents by the People's Republic," the act does not confine it to Communist China, making it clear that this country of Taiwan—it was a country, and it still is by any fair, reasonable definition of the terms, though it might be in an awkward posture diplomatically—would enjoy the capacity to defend itself. Now, that is the context in which the Taiwan Relations Act was passed. The act made a very clear commitment to that end. The President and the Congress did so together.

Now, here we are, 3 short years later, with the President and the executive branch, a partner to that overall agreement, now issuing a statement that clearly departs in another direction. Why? It is a whole new policy, of course, clearly diverging from the act.

The communique does not stress the perpetuity. It does not stress that the determination shall be independent of other things. It says that it will not be the long-term policy, there will be a termination point. In the interim there will be a cap, quantitatively and qualitatively.

I submit, without going on ad nauseam about it, that there is a clear divergence, and it is hypertechnical and hyperlegalistic, bordering on the disingenuous, to contend that one could actually say there is no conflict, that there is no problem.

Maybe we have reached an impasse on the point. I am not trying to put words into your mouth. But I would submit that if I had to defend the proposition before a jury or a fair-minded group of people I would win, not because I am a skilled advocate, but because if those people could understand the English language and would read one document and then read the other, they would say there is a clear and compelling and unquestioned divergence. It strikes me more specifically that the executive branch is reneging. It is backing off from an agreement that it entered into in 1979. The President signed the Taiwan Relations Act. He was a part of that constitutional process, and he is now staking out a position at odds with it.

ROLE OF CONGRESS

I want to be fair about it, but it is a divergence. More specifically it is a conflict. This notion that one might consult with Senator Percy, and I have the utmost respect for Senator Percy, but consulting with an individual Senator is not the same thing as honoring the institutional will of the U.S. Congress. The Congress is two bodies, 100 members here and 435 there. The act refers to the President and the Congress, "their" judgment of the needs. Congress is not one Senator. It is not me. It is not Senator Percy, as distinguished as he is. It is not anyone else. It is all of us. Thus, it is a separation of power institutional problem.

So I see a legal departure in the wording, and I see a policy departure. To contend that it is simply not so, that there is no separation of power problem, I simply cannot understand. You say the President has the prerogative to set forth a new policy. Of course, the President has the right to state a policy position. But we then have the prerogative to point out that the policy is quite contrary to what that policy posture was and what that wording was as of 1979.

Where does that leave the Congress? The act required that we act together. Now, apparently the President has decided on his own initiative. We are talking about entities, the executive branch and the Congress. I am uncomfortable when you say, "Well, we talked to Senator so and so and that solved this problem. No, it does not solve the problem in a separation of powers institution sense. Congress is more than one Senator. It is the executive branch that is now careening off in a different direction and not Senator Percy but the Congress that is being ignored.

How does the executive branch answer that, Mr. Robinson?

Mr. ROBINSON. Thank you, Senator East.

If I might, Mr. Chairman, let me see if I could provide some specific information. It is hard to answer questions involving the Act or the communique without focusing on the specific provisions of them. Let me say first on the consultation point that as I indicated in my opening statement, the Taiwan Relations Act in section 3(b) provides that the determinations with regard to arms sales will be made "in accordance with procedures established by law." The act specifies no procedures for joint action by the Congress and the President. However, section 14 of the act, which I would like to quote from, vests the primary oversight responsibility in the Senate Foreign Relations Committee and the House Committee on Foreign Affairs. And I will then give you a quote from Senator Percy.

Section 14(a) of the Taiwan Relations Act provides: "The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress, shall monitor, (1) the implementation of the provisions of this Act."

Now, we would say with all due respect, Mr. Chairman, that there was nothing in the President's statement of policy set forth in the communique that is inconsistent with these provisions. The President has abided by them and, indeed, as he said he intends, in the future, to act consistently with the Taiwan Relations Act.

Senator Percy, in a hearing before the Senate Committee on Foreign Relations on August 17, 1982, said the following with regard to the consultation that had occurred, and I quote now from Senator Percy:

"As you know, over the period of almost a year, the committee," I underline the word "committee," "has been in contact with you."

In this case, that was Assistant Secretary Holdridge . . . "and other officers of the Department on the Administration's policy toward China and Taiwan. These sessions have been most helpful to the members of the committee in understanding the problems you confront in pursuing U.S. interests in our dealings with China and Taiwan. I commend you, former Secretary Haig, Secretary Shultz, and the President on your forthright and candid approach toward the committee. The approach has greatly assisted the committee in fulfilling its consitutional role in the field of foreign affairs. Our discussions on U.S. policy toward China and Taiwan over the past year have been a model—have been a model of the consultative process of which both branches of our Government can be justifiably proud. I thank you."

That is Ambassador Holdridge—"for your role in that process."

Another issue I might address has to do with section 3(b) of the Taiwan Relations Act where it says the President and the Congress shall determine the nature and quantity of such defense articles and services solely upon their judgment of the needs of Taiwan in accordance with the procedures established by law. The needs of Taiwan can only be determined in relation to the nature of the threat which it faces and the President's future policy regarding arms sales to Taiwan is premised on his judgment of the nature of the threat posed by the People's Republic of China, a factor which is directly related to Taiwan's needs.

Thus, in our view, section 3(b) was indeed fully taken into account and fully complied with in the issuance of this statement of policy, which I reiterate does not set forth legally binding rights or obligations but rather is a statement of policy.

Another point I might like to comment on was your reference to a termination point. The use of the words "final resolution" do not carry with them a specific date. Indeed, I am informed that during the process of negotiating the communique, the People's Republic of China's representative asked for a specific termination date, and you will note there is no such provision in the communique.

Now, Mr. Chairman, if you have specific questions, that would help me because we want to be responsive. It is hard to avoid making rather general conclusory statements without being able to identify specifically what issues are giving you concern in connection with the actual text of the Taiwan Relations Act and the text of the August 17 communique.

"CONSULTATION" IS NOT PARTICIPATION

Senator EAST. Well, let me take up several points you have raised there, Mr. Robinson.

You used the word consultation. Now, certainly consultation between the executive branch and the respective committees in the House and Senate would be appropriate to explore a potential joint change of posture by the two entities. I think that would be honoring the separation of power concept. That is, the President would now be saying, "I think the circumstances of 1979 have changed, so we ought to change the Taiwan Relations Act and I am going to ask Congress to help us do that. We will join in together in doing it because in 1979 it was a joint venture, and the act foresees continued joint determination. It says the President and the Congress, and to begin that process of alteration in which both entities will be involved fully and completely under articles 1 and 2 of the Constitution we shall consult." But certainly "consultation" is not a complete substitute. It is presently de minimus, a mere briefing. We are suggesting that there has to be full and complete and total participation by the Congress as an institution.

Consultation would certainly simply be the process by which you begin discussion between the two entities. But it is not a substitute for "congressional action" which clearly the letter and the spirit of the Taiwan Relations Act envisioned.

What do you say on this matter of consultation?

Mr. ROBINSON. Well, I might, Mr. Chairman, with all respect again state that section 3 of the act provides no procedure for joint action, and states that determinations are to be made "in accordance with procedures established by law." The Arms Export Control Act, for example, is a statute that has to do with arms sales and what steps the executive branch has to take in connection with those arms sales. As far as we are concerned, in the past those procedures have been met and in the future they also certainly will be met. Section 14 of the Taiwan Relations Act, to the extent there are any procedures established in the act itself, provides for oversight by the Congress and, indeed, section 14(a) says that the two Foreign Affairs Committees of the two Houses and other appropriate committees shall monitor the implementation of the provisions of the act.

Now, maybe reasonable men can disagree as to the meaning of the word "monitor," but from my perspective I have assumed that monitoring the implementation of the provisions of the act has to do with the consultative procedures and processes which the executive branch and the Congress always follow in their cooperative efforts.

Mr. **Olson**. I might add that section 14 of the Taiwan Relations Act also provides that this monitoring process, which I would also presume to mean the exchange of information and consultations and discussions, includes the legal and technical aspects of the continuing relationship between the United States and Taiwan and that the two committees that are referred to in section 14 are given the responsibility of reporting as appropriate to their respective houses on the results of the monitoring. And as Mr. Robinson indicated, and as set forth in Mr. Powell's letter, during the months preceding the issuance of the joint United States-China communique, there were regular and extensive discussions with both of those committees. During the consultations, the committees were informed of the substance of the proposed communique and given an opportunity to express their views to the administration.

Senator **East**. Well, looking just on this matter of consultation, section 14(a), the Committee on Foreign Affairs of the House of Representatives and the Senate shall monitor, one, the implementation of the provisions and the operation and legal and technical aspects of the relationship, and (b), such committees shall report as appropriate to their respective houses on the results of the monitoring. Monitoring, consultation—that is one thing. In other words, some conduit for keeping us posted and informed. I understand that.

But my point is that consultation is not the same thing as Congress, via its legislative process, changing the Taiwan Relations Act. That is the premise I keep coming back to, that some way or another you are suggesting that the consultation process fulfills this joint institutional arrangement that was established in 1979.

SECRET AGREEMENTS WITH RED CHINA

Let me ask you another question. Are there other informal agreements that have not yet surfaced that maybe we ought to know about in the Congress? For example, are there informal agreements now with China not to supply F-16's to Taiwan?

Mr. **Robinson**. To the best of my knowledge, there are none, Mr. Chairman.

Senator **East**. There have been some stories surfacing lately that the United States is providing, informally, information to Red China on defense sales to Taiwan. Is that true?

Mr. **Robinson**. No, sir.

Senator **East**. You see, we would have no way of knowing because you believe you are not really required to work with us on that as an institution. And what troubles me as a Member of the Congress and as a part of this institution is that if you do not consider this communique at odds with the Taiwan Relations Act, I am not clear that the executive branch would consider any informal, independent action it might take at odds with it.

Mr. **Olson**. Mr. Chairman, the communique itself does not state in any segment of it that the defense needs of Taiwan will not be considered or that sales will not be made in a manner sufficient to maintain the self-defense capabilities of Taiwan, to use the words of the Taiwan Relations Act itself. When the President announced the communique, he specifically stated that sales of arms will be made in accordance with the Taiwan Relations Act.

THE COMMUNIQUE AND "DOUBLESPEAK"

Senator **East**. But the communique clearly indicates in paragraphs 6 and 7 that there will be a final resolution. Now, Mr. Robinson says, well, that is not as bad as you think, Senator, because there is no specific date given.

But language ultimately has to mean something, unless we are totally in George Orwell's world of 1984, and sometimes I think, as I noted at the last hearing, that in our dealings with Communist China and Taiwan, we are in that world.

First of all, everyone calls it a "People's Republic." It is not a "republic." It is a totalitarian dictatorship, and everyone goes around talking about the "People's Republic of China." It sticks in my craw to say it because language ought to mean something, and the people did not choose that government and it is not a republic. Yet we cannot call the Republic of China the "Republic of China." We have to call it "Taiwan." It is a world of doublespeak and 1984 is only 2 years away.

Now, "final resolution," you say that does not really mean final resolution, Senator, because there is no fixed date. Well, if the English language means anything at all, final resolution means a terminal point, and the Taiwan Relations Act does not in any fair reading, by letter or spirit, suggest a terminal point. I find it particularly troublesome and agonizing that the Reagan administration would be making us defend this posture. That is what I find the most disconcerting thing of all in this because I admire the man, and I admire the great leadership he has shown in such a whole range of areas, and I wish him well. And I have supported him as a delegate going back to 1968 at the Republican National Convention. But if this is his administration's Taiwan policy, I strongly and vigorously dissent from it. I do not blame you, Mr. Robinson, because you are doing the best you can with a very bad case. Lawyers are often assigned cases that are very bad, and I think you have a bad one. But I find myself here tangled up in an Orwellian world in which language does not mean what any fair-minded person could know what it must mean. "Final resolution," I am told, does not mean final resolution.

Mr. **Robinson**. Let me see if I might——

Senator **East**. Consultation does not mean that the Congress shall be a part of it. Consultation is a substitute for it.

Excuse me, go ahead.

Mr. **Robinson**. Let me see if I can respond to several of the issues you have raised. Obviously it is not within the province of the executive branch to seek to amend an act passed by the Congress. The President has not purported to so act and has every intention of continuing to comply fully with the terms of this act.

On the procedural point, I hope we have at least tried to point out the sections of the act, sections 3 and 14, which we find bear on the issue of the relationship between the executive and the legislative branches.

I think I should also state, Mr. Chairman, that we have denied categorically, and I gather publicly, that we have provided or will provide any information to the People's Republic of China on our arms sales to Taiwan.

Next, the statements in paragraph 6, for example, the final resolution language, are part and parcel of a sentence that has the introductory phrase, and I quote, "having in mind the foregoing statements of both sides."

The communique, as I have indicated, is a statement of policy. It is not a legally binding agreement under international law. It is not a statement that would have to be provided to the Congress under the Case Act. It is a statement of policy and that policy in paragraph 6 very specifically says that it is premised on certain understandings; that is, the meaning of the words "having in mind the foregoing statements of both sides."

In paragraph 4, the People's Republic uses the words "fundamental policy," of seeking a peaceful resolution of the Taiwan question. It is my misfortune not to read, write and speak Mandarin fluently as Assistant Secretary Holdridge does, but I gather from his testimony in August that the word "fundamental" in the Chinese language, means, if anything, more than fundamental does in the English language. It is a basic, long-term and guiding principle that is being set forth.

In paragraph 5, the United States makes reference to the "new situation" which has emerged. Again, the reference is to this fundamental policy of the People's Republic.

So paragraph 6 of the communique is a statement by the U.S. Government of an intention and an expectation that are premised on a continuation of China's fundamental policy. We have no reason at this point, as I understand it, to doubt that premise. The future will deal with itself. We have every intention as an administration of complying with section 3(a) of the Taiwan Relations Act.

As I indicated, Assistant Secretary Holdridge very pointedly stated that the guiding principle of the administration will continue to be that embodied in the Taiwan Relations Act; that is, the maintenance of a self-defense capability sufficient to meet the military needs of Taiwan. Those military needs of Taiwan are, of course, dependent upon whatever threats there may be to Taiwan.

Senator, I will be happy to amplify further, if I may. I do not know if I have answered the various questions you were setting forth.

Senator EAST. I suppose it is summed up as well as anything in this term "final resolution." First, I was arguing whether language means anything when you are, in effect, forced, and I appreciate your position, forced into the awful position of telling me that "final resolution" does not mean "final resolution," that it means something other than final resolution. What that other thing is wholly unclear. But I would note that Ambassador Holdridge, in testimony before the Senate Foreign Relations Committee, says here:

> Except we say we do not intend to pursue a long-term course of arms sales to Taiwan.

Senator GLENN. Then let us cut it back. Then if it is not one hundred years, is it fifty?

Ambassador HOLDRIDGE. I would hesitate to try to define this.

Senator GLENN. I think your guess is as good as mine. We surely are on an open-ended thing here. I will leave it for one hundred then, for the benefit of Taiwan, although that does stretch it out for quite a few years.

Ambassador HOLDRIDGE. You may set it at one hundred.

Senator GLENN. Let me——

This testimony goes on around and around the mulberry bush. Senator Glenn is right. What he is doing is putting his finger on the problem with Secretary Holdridge that this term "final resolution" is clearly at variance with the Taiwan Relations Act. I might note that it seemed to me that Holdridge and the communique are in effect agreeing with the Red Chinese, and I have already indicated in quotations from them, that they consider it to mean a phasing out, an elimination of it.

Holdridge says that is what it means. Any fair reading of the communique says that is what it means. Chinese Communists say that is what it means. Senator Glenn is troubled with it, and I am troubled with it.

Mr. ROBINSON. Maybe, if I might, Mr. Chairman——

Senator EAST. Yes, I am grasping and I want to understand. It is like a slow student. He would like the teacher to go over it again. Maybe I lack experience which I have not had in the State Department. Their use of English is different from mine and, if so, I will need further instruction.

Mr. ROBINSON. Well, I am very sure, Senator, that no instruction is necessary, nor certainly would it be something that I could provide.

Let me just say, if I might, with due respect, that paragraph 7 is very carefully crafted. It says:

> In order to bring about over a period of time a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

Now, that paragraph certainly carries the implication that there has been no final settlement of that issue at this point. That indeed was the reason why there is no reference to a termination date. The word termination is not included in any of the language.

Again, if you take paragraph 6 and paragraph 7, paragraph 6 is a statement of policy setting forth expectations and intentions that are based on certain premises. They are based on certain assumptions. They have in mind certain statements that appear in paragraphs 4 and 5, and paragraph 7 sets forth the goal, the aspiration of creating conditions that will be conducive to a thorough settlement of this issue. We will have to review the future as it comes. We will have to look at the issue on a case-by-case basis, and we will have to keep in mind, as the President has indicated he intends to do, that section 3 clearly states that the United States will make available to Taiwan such defense articles and defense services in such quantities as may be necessary to enable Taiwan to maintain a sufficient self-defense capability. The needs of Taiwan will be reviewed consistently and will always be taken into account in the implementation of the executive's policy in this area.

THE SPIRIT OF THE TAIWAN RELATIONS ACT

Senator EAST. I think looking beneath the surface in all of this, however legalistic you and I might get about it. One has to put things in the real world, some context of the political climate, of the context in which an agreement is entered into. I think it is pertinent to this problem, if I might elaborate a bit on this. I noted in the reading of the Taiwan Relations Act, again this is Congress and the executive branch as of 1979, not only a so-called legal statement, but also a spirit behind the law. It represents a full policy posture and section 2(b) of the Taiwan Relations Act is a declaration of policy. It says, under section 2(b)(1) it is the policy of the United States to preserve and promote extensive close and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan. Between, not among. There is no third party involved. The act is upbeat. It is positive in spite of the unfortunate breaking of diplomatic relations and breaking the mutual defense treaty. There is a close bond here.

We are told in section 2(b)(5) it is the policy of the United States to provide Taiwan with arms of a defensive character. Not merely to consider need in the view of the Communist Chinese but in the long-range context of Asian politics.

What if the threat were from some other quarter? Would we have to resort to other forms of coercion that would jeopardize the security or the social or economic system of the people of Taiwan?

The act is clear, categorical, and upbeat.

Getting away from the precise language—"final resolution," "consultation," ad infinitum—getting back to the spirit of the communique, it moves the other way. We are told about the intent to eliminate long-term sales and that there shall be no increase quantitatively or qualitatively, and about a "final resolution," and a "final settlement." They should have used a more solicitous phrase than "final resolution." It reminds one of other problems back in an earlier period in this century.

We are told in paragraph 8 that the development of the United States' relations is not only in the interest of the two peoples, but also conducive to peace and stability of the world. The two sides determine on the principle of equality and mutual benefit to strengthen their ties, cultural, scientific, technological and other fields, and to make strong joint efforts to continue the development of relationships between the countries, and so on and so forth.

In an earlier paragraph they indicate there is only one China. The whole policy thrust, back to my "ratchet effect," is to downplay Taiwan and to move Communist China upward. Now, if you follow the scenario of the relationship between this country and the Republic of China since 1945, we are patently a totally unreliable ally. I would say this categorically. From the fall of China to today it is always the "ratchet effect" for Taiwan. The Taiwan Relations Act tries to assure at least a plateau below which Taiwan would not sink any further. There was, frankly, little else we could do. We broke the mutual defense treaty and broke diplomatic relations. But the act was to insure that there was a floor, that there was cultural and commercial exchange, and that Taiwan's defense needs would be considered independent of any other consideration;

it would be solely between Taiwan and the United States. Now, 3 short years later, I sense a circumventing of that. "Consultation" is adequate for Congressional involvement. "Final resolution" does not mean final resolution. I do not know what it means. I do not think anyone could know. But it is quite clear, if you put it in the context of the whole, in the real world of politics and law, that it means a downgrading of our commitment to Taiwan.

Mr. ROBINSON. Let me, Mr. Chairman——

Senator EAST. If that is what the American people want, and if that is what the President wants, and if that is what the Congress as a whole wants, there is no way I as a Senator can stop it. First of all, I am very disappointed to learn that perhaps this is what the President of the United States wants because of my great admiration and respect for him, and because he has publicly stated so many times that this is not his intention. The man is very busy. Whether the State Department has given him good advice is another question. I bet if Ronald Reagan were sitting here, he would say, "Doggone it, John, you are right, it is a bum statement. I do not know how we got tripped into that one."

DESIRABILITY OF STATE DEPARTMENT CLARIFICATION

I wonder if we might not get, since you say it does not mean what we think it means, an official memorandum from the executive branch by the State Department, official and categorical in character, indicating that no matter what implications are coming out of this communique, it is categorically understood as a matter of long-term institutional commitment that the executive branch, and whoever is elected President in 1984 will not deviate one whit from the Taiwan Relations Act as it would be understood in letter and spirit. There is no point in the Congress passing another resolution simply upholding a law we already passed. We have more important things to do other than saying the law we passed in 1979 is as valid today as it was then.

Who has created the confusion? The State Department of the executive branch, the President, or a combination thereof? Do you think the executive branch would be responsive to some sort of official Department of State memorandum clarifying beyond question that whatever misunderstandings have come out of the communique, that they can all be laid aside and the fears can cease and stop, that there is no need to have any more hearings because, the Department agrees that the Taiwan Relations Act, the letter and the spirit of it, stands categorically as the law of the land. Could we reasonably expect that?

Mr. ROBINSON. Let me have the President speak for himself in this regard. I will introduce the quotation from the President by saying that certainly in this administration, under this President, the communique does not evidence any chnge in attitude toward Taiwan or its needs. The President, on August 17, the same day that the communique was issued, issued his own personal statement. Let me read from that. I quote from the President, not from the State Department, but from the President:

> In working toward this successful outcome, we have paid particular attention to the needs and interests of the people of Taiwan. My long-standing personal friend-

ship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial, and people to people contacts—which are compatible with our unofficial relationship. Such contact will continue to grow and prosper and will be conducted with the dignity and honor befitting old friends. . . .

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past 3 decades, and of the American contribution to that process. I have full faith in the continuation of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well-being of the people of Taiwan.

Now, from my perspective, Senator, that is an upper, not a downer.

PERSONAL VERSUS INSTITUTIONAL ACTS

Senator East. My answer to that would be this, Mr. Robinson. That is a personal statement of the incumbent President which is somewhat reassuring in view of the communique. Although the best I can now say is that he seems to be ambivalent. He seems to be saying one thing while the communique says another. Even the President was troubled. He called Dan Rather to say that the inference that Rather drew was not the position of the President nor was it the position of the State Department.

What really concerns me as a Member of the Congress is that, the Taiwan Relations Act is an institutional act of the Congress. It specifically states that the consultations and the changes and decisions will be made by the President and by the Congress, by these institutional entities, regardless of who holds office within those entities. Let us say in 1984 President Reagan chooses not to run for office. We elect a new President, Democratic or Republican. President Reagan's statement will not mean a good deal then because it is a gratuitous statement of the incumbent President at one particular time.

What I am concerned about is that we are setting in motion now a "communique from the executive branch" which subsequent Presidents, if they are inclined to ratchet down even further, will point to as already on record. These things move incrementally, and any serious student of our post-World War II relationship with Communist China will see the pattern as clear as night follows day and will be deeply troubled with it.

Once again, if I might just repair again to separation of powers, which is the primary jurisdiction of this entity, what I fear is that it is a further erosion away of our policymaking function. Someone is making another end run around. This time it is the executive branch, probably the State Department. Other times it is the Supreme Court or the lower Federal courts. The Congress is well nigh impotent on policymaking in this country. We are confronted with fait accomplis which we have to react to: How do you like the Supreme Court's busing policy? How do you like their abortion policy? How do you like their reapportionment policy? How do you like this policy, that policy? It is a fundamental problem of separation of power. Who makes policy changes in a genuine democratic republic, which is the fundamental premise on which this country is founded?

Policy is made by the elected representatives. Sometimes it is done jointly. It was in the case of the Taiwan Relations Act. President Carter had the prerogative to break diplomatic relations. I disagreed with him. It was a drastic mistake, but I understand that. However, the Congress then responded, and the President signed this act, the Taiwan Relations Act.

So I am concerned, in spite of what you are saying about President Ronald Reagan's, the current incumbent's reassurances. I am concerned about the near-term and the long-term, when we have new Presidents. We are not talking about a casual dictatorship here. We are talking about a democratic republic. We are talking about fundamental institutions, the Congress and executive branch. I am concerned that this communique will be understood by subsequent administrations, by our allies and our enemies, as a fundamental alteration of the policy of the executive branch vis-a-vis the Congress regarding the Taiwan Relations Act.

OFFICIAL CLARIFICATION NEEDED

I am looking for something of a somewhat long-term, substantive, institutional nature that would reassure me and lay aside my fears rather than my hearing saying, "Hey, but you saw what the President said in the New York Times." Four, eight, twelve years from now, people will be looking at the communique. They will be looking at the State Department communique. That will be the "official document," not a story in the Times.

I want an "official document" that would lay all this to rest, and since the problem was created by the executive branch and the Department of State, I would like to see them correct it categorically. If you are saying, "Senator, you ought not to be wrought up by this language and conflict, there is absolutely nothing to it." If that is what you are saying, I would say, "Gentlemen, we have made some progress. My concerns were totally ill-founded. The concerns of Senator Goldwater, Senator Glenn, Senator Symms, Congressman Solomon and others were totally ill-founded. We regret the misunderstanding." But to clear up the contemporary problem as to the posture of Ronald Reagan, the current incumbent President, why can we not get together and have some sort of clear-cut categorical statement of an official international quality that would clarify all of this and make it clear that, as the President and you were saying, there is not going to be any final resolution because Communist China says that is what the communinque means.

I would like to know for my own personal satisfaction that it does mean that.

Do you think the administration would he agreeable to that?

Mr. ROBINSON. Let me say, Mr. Chairman, if I may, in response to several of the points that you have been making, first of all, you have, of course, my introductory statement. You have the statements made by Assistant Secretary Holdridge before the two committees that have the primary oversight responsibility under the Taiwan Relations Act, and you have the President's own statement of August 17.

I want to emphasize that the joint communique is not a legally binding international agreement creating obligations and rights under international law. It is a statement of policy. It is a statement of intention. It is a statement of expectations. It is based upon understandings. Certainly a communique of this nature cannot bind any future President of the United States.

On the other hand, it is a statement of the policy of this administration. As I have gone through paragraphs four, five, six and seven, I have attempted to outline precisely what those words mean. I think we must be very careful here to separate law from policy. I can understand, Mr. Chairman, if you have your own reservations with regard to policy. That is your right. We are not here, however, to go through the policy issues with respect to the People's Republic of China and Taiwan. Those are primarily the responsibilities of these other committees. As I understand it, we are here to discuss the issue of whether what the President has done in this joint communique has complied with the provisions of the Taiwan Relations Act. We say to you that the answer to that, in our fair judgment, is absolutely yes, affirmative.

In terms of any issue of separation of powers, I would defer to my colleague, Mr. Olson. If there is any question here this morning, it is one of statutory interpretation. There is no issue of separation of powers that I am aware of.

Mr. OLSON. Let me just add, Mr. Chairman, that you talked a few moments ago about a statement of policy by the President, by the executive branch or the State Department with respect to what the communique means and what the intentions and spirit will be with respect to this Nation's relationship with Taiwan.

As Mr. Robinson stated, the incumbent President, in making a statement of policy, could not bind his successors, and neither this President nor any successor President can change the Taiwan Relations Act. As you have pointed out, it is an enactment by this body, and only this body can change it. The implementation of the United States-China joint communique, which is a statement of policy, must be in accord with the Taiwan Relations Act. With respect to a statement concerning the intentions of the State Department and the President, Mr. Holdridge did make a very affirmative, very positive statement the day after the 155 names of the joint communique. He said, and I think it is important because it is responsive to what you are saying:

> We undertook these discussions,

with the People's Republic of China

> Therefore, with the hope that a formula could be found which would permit the continued growth of our relations with China, but also with the firm resolve that there were principles regarding the security of Taiwan which could not be compromised. Those principles embodied in the Taiwan Relations Act, commit the United States to sell to Taiwan arms necessary to maintain a sufficient self-defense capability.

Then, of course, when the President commented on the communique itself on the same day it was issued, he stated categorically, "Arms sales will continue in accordance with the [Taiwan Relations] Act * * *."

It is hard for me to imagine more unequivocal statements both by the State Department and the President, with respect to compliance in the implementation of any policy with the statutory requirement that exists.

Senator **East**. You say the President cannot change the Taiwan Relations Act as a strict legal matter. What he can do is ignore it and try to make an end run around it. To me, the communique indicates his policy direction, and therein lies the nub of the problem.

INSEPARABILITY OF LAW AND POLICY

Now, on Mr. Robinson's point that you must separate "law and policy," I would submit, in the real world in government that is not easily done. Law and policy are frequently inseparable. Both are a part of the fabric of policy and course and direction. Therein lies the problem. I am not insulting the Department of State for sending you, Mr. Robinson. You are obviously an extremely able and talented fellow. But the way they would like to finesse this problem is to send a legal man, not a policy man. Then you simply beg off from a particular question and say it is a policy problem rather than a legal problem. I am on the Judiciary Committee trying to state a legal problem. But in the real world of government and politics law and policy are inseparable.

So I do not accept this distinction, and I daresay the world of public administration always cautions against suggesting there are rigid demarcation lines in separation of power or rigid demarcation lines between policymaking and administration. They are inseparable. They are interrelated. They are interwoven. That is the fabric of society. Of course, ultimately, the concern here is one of policy. That is always true of law. Law does not live in isolation. Certainly law schools do not teach that. If they did, they are not very well equipped to teach their students that law is a part of the fabric of society and policy. The law reflects perspectives and values and norms and group interests and directions. It is policy.

So let us disabuse ourselves of any notion that there is a rigid and total separation here and that you good chaps are strictly legal, while others are strictly concerned with policy.

There is a problem that Senator Glenn, Senator Goldwater, Senator Symms, Senator Kasten, and everyone else has. I am not trying to define their respective positions. All I am saying is that I know they have indicated public unhappiness. Whatever the great diversity of their points of view, what I am saying is not an uncommon feeling of exasperation among them—that the executive branch is carving out a new policy direction contrary to what it was assumed to have had in 1979, and that the members of the executive branch are bobbing and weaving behind a facade of legalistic doublespeak. It does not sound to me like Ronald Reagan. It sounds to me like the State Department.

I just wonder if he has been ill-served by long-time careerists—good people, dedicated public servants, but people who have a different policy conception than he. They have managed to put together this communique. It has worked its way through and obviously troubles the President himself. He is trying to figure some way out of this morass.

I cannot, in good conscience, rest with what I think is clearly a new policy direction. I cannot leave this hearing or any other hearing and say, "Well, they have satisfied me, they are right. Law and the policy are definitely different entities." Not so. As a teacher and student of politics, I know better than that. They are terribly interrelated.

Mr. **Robinson**. Let me say, Mr. Chairman——

Senator **East**. I thought we had reached a plateau. I regretted the low level of the plateau, but at least I thought we were guaranteeing a minimum status. Now I sense a further downward trend. We are playing the so-called China card and doing it at the expense of an old and faithful ally. I think the policy implications are enormous and negative.

LOSS OF U.S. CREDIBILITY

As regards the policy posture of this country, in the near term and for the balance of this century, it is becoming the common perception that the United States does not know who her allies are. And, when we do know, we sometimes lack the will to stick with them, rhetorically and logistically. I think this will continue to contribute, in terms of policy, to the lack of peace and stability in the world because we simply cannot be counted upon. We are going to force allies like Taiwan and others to seek their strength and security elsewhere. In recent days Communist China continued to speak harshly of this country, to speak harshly of other countries it does not care for, and to talk about its Third World activities. It is a Marxist-Leninist country. It could turn viciously on us at any time when it serves its interests. Anybody that has any understanding of Marxist-Leninist policies ought to know this is not a new and chummy relationship. It is expedient and temporary, and it could change overnight.

So the policy implications are enormous, and a Member of the Congress, House or Senate, ought to be concerned about what this means for peace and stability in the Far East and, ultimately, for the well-being of this country. I believe that that is one of the reasons I was sent here by the people of North Carolina—to look after some of these international concerns.

DOMESTIC IMPLICATIONS

I am concerned that the communique talks about new relationships. I will put it in a North Carolina context. Are we going to become a dumping ground for Red Chinese tobacco and textiles? "Why, Senator, you know we are building a new relationship with Communist China, an economic relationship. Senator, have you not heard, we are playing the China card." Then they will say, "Legally, Senator, you do not have a leg to stand on. So let it go at that."

I am not that naive. I know that law and policy are interrelated. They are interrelated here, and the implications for the world, for this country, and for my State of North Carolina, as well as other States in this country, are clear. The great trading partner, if you want to put it in those terms, is Taiwan. That is the great economic miracle of the Far East. It is not Communist China. I fear that if this communique can be left to stand as a new policy course, why, in a matter of a year or two or three, I would not be happy to explain to my good constituents in North Carolina why we are a dumping ground for apparel and textiles and tobacco. To serve the improved relationship with Communist China? I could not sell that in North Carolina, and I would not even try to. On top of that, I would not want to, because it does a disservice to an old and faithful ally. I think it is an alliance with a country that cannot be trusted in the near or long term. It is totally contrary to the values of our country and to the values of the free world, and it will wreak enormous harm on the economy of my State. I am strongly opposed to it for every reason I can think of—legally, morally, politically, and economically.

I do not mean to make you good gentlemen to be the sounding board for my grievances. But the executive branch has charted this new course. I did not. They did it and they are trying to beg off on a narrow legalistic argument. It will not wash with me. I think at some point, if this administration and this State Department cannot clarify this matter in a more compelling and effective way than they have, I hope and trust there will be some desire in the Congress to take action to correct it. We can't just let it pass without comment and shrug our shoulders and say that that is all there is to it. I think we would do a great deal of disservice to ourselves, our country, and peace and security in the world.

Mr. **Robinson**. Let me say, Mr. Chairman, as a fellow attorney, I fully agree that issues of law and policy are often interrelated and intertwined. The gravamen of my comments was rather to indicate that we were responding to your two letters of August 20 and August 24. That is why I am here this morning. Those letters set forth questions of interpretation of the statute and issues of separation of powers. Assistant Secretary Holdridge has testified extensively on these policy matters which you are raising, both before the Senate Foreign Relations Committee and the House Foreign Affairs Committee, as was foreseen and contemplated by section 14 of the Taiwan Relations Act. Certainly as a fellow attorney I fully agree with you that as a general matter drawing lines between law and policy is always very difficult. But I am simply attempting to indicate that, at least as I understood the purpose of this morning's session, it was directed toward the issue of separation of powers and the relationship between the August 17 communique and the Taiwan Relations Act.

Senator **East**. You have been exceedingly competent, able, and you tried to do your very best. As I say, I think you have been given an incredibly difficult assignment. I appreciate that the roles you were sent over here to do were basically legal in character, and I understand that. But I think we have indicated that the legal and policy ends of it are interrelated. We have indicated that your legal explanations seem to be at odds with Mr. Holdridge's policy explanation.

NEED FOR CLARIFICATION OF POLICY

Do you think Secretary Holdridge would be agreeable to coming over here and enlightening us a bit more on the interrelationship between the legal and policy aspects? As a matter of separation of powers they are both entailed here. I think the legal end and the policy end are interrelated, and they deal ultimately with the fundamental question of policy.

Going back to the agreements of 1979, what the executive branch did and what the Congress did were done together. There was to be no more diplomatic relations and no more mutual defense treaty with Taiwan but new formal diplomatic relationships with Communist China. At the same time, however, the act came into play to carve out this strong economic, cultural, and social relationship, and there is a very vital defense component as well. There was an overall policy conclusion between this Congress and the executive branch in 1979. Now, the executive branch is diverging, and we have legal and policy problems.

I am just curious, do you think Secretary Holdridge would be interested in coming over and enlightening us?

Mr. ROBINSON. Let me say, Mr. Chairman, as I have attempted to articulate in my opening statement and in my responses, we see no conflict whatsoever between the law and the policy either as the law was enacted in 1979, and the intentions at that moment, or between the law and the policy now in 1982. I further am not aware of any inconsistency between what we have been saying here this morning and what Assistant Secretary Holdridge has said in his testimony. I would certainly hope that they would be consistent and that is my understanding.

I will be happy to respond if there are any specific matters that you regard as not being compatible with one another.

With regard to any further testimony, I am certain that Secretary Shultz would give every consideration to any request that you might wish to make.

Senator EAST. I appreciate the fact that obviously personally you cannot commit other persons to come and appear, but it strikes me it might be useful. We might consider the possibility of inviting the so-called policymakers in the State Department to come and clarify this for us. Again I appreciate the jurisdictional limits of the committees of Congress, but they do overlap. The law and the policy are a seamless web, to use that old expression. There is no great wall or separation between the two, but perhaps we have reached the limits of the legal arguments.

I would like to keep the record open for any further written questions that we might possibly submit to you at a future time if you would be willing to answer those for us. I have no further questions now.

I would like to thank the two of you for coming this morning and being patient and effective and diligent. You have performed exceedingly well. You have never guaranteed you would reassure me on every point. I understand that. If either one of you have a final comment or observation you would like to make, I would be delighted to have you make it.

Mr. ROBINSON. I would simply like to express my thanks to you for your kind remarks and to say that it is always a great privilege to appear before the U.S. Senate and a very distinguished committee and subcommittee of the Senate.

As I indicated, if indeed you would like to have further testimony, I am sure that a written request to the Secretary would be fully considered. We will be happy, of course, to consider any further written questions you might wish to submit to us. But I would certainly like to express my own appreciation to you personally for your courtesy and for this opportunity. I hope we have been as responsive as we could hope to be.

Senator EAST. Thank you.

Mr. OLSON. I have nothing further. Thank you, Mr. Chairman.

[Questions of the subcommittee and responses of the Department of State follow:]

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

STROM THURMOND, S.C., CHAIRMAN
CHARLES McC. MATHIAS, Jr., MD.
PAUL LAXALT, NEV.
ORRIN G. HATCH, UTAH
ROBERT DOLE, KANS.
ALAN K. SIMPSON, WYO.
JOHN P. EAST, N.C.
CHARLES E. GRASSLEY, IOWA
JEREMIAH DENTON, ALA.
ARLEN SPECTER, PA.
JOSEPH R. BIDEN, Jr., DEL.
EDWARD M. KENNEDY, MASS.
ROBERT C. BYRD, W. VA.
HOWARD M. METZENBAUM, OHIO
DENNIS DeCONCINI, ARIZ.
PATRICK J. LEAHY, VT.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

VINTON DEVANE LIDE, CHIEF COUNSEL
QUENTIN CROMMELIN, JR., STAFF DIRECTOR

SUBCOMMITTEE ON SEPARATION OF POWERS
JOHN P. EAST, N.C., CHAIRMAN
ORRIN G. HATCH, UTAH
JEREMIAH DENTON, ALA.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

JAMES McCLELLAN, CHIEF COUNSEL AND STAFF DIRECTOR

October 21, 1982

The Honorable George P. Snultz
The Secretary of State
2201 C Street, N.W.
Washington, D.C. 20520

Dear Mr. Secretary:

As you know, the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary is currently investigating the apparent conflict between the Taiwan Relations Act and the United States-China Joint Communique of August 17, 1982. The Subcommittee cannot make a final determination as to whether any provision of the Communique is inconsistent with the spirit and letter of the Taiwan Relations Act, however, until the State Department has clarified the various policy declarations contained in the Communique.

To date, the Subcommittee's effort to resolve the discrepancies between the Taiwan Relations Act and the Joint Communique has been hampered by the State Department's failure to provide appropriate witnesses who can address the concerns of the Subcommittee.

Accordingly, I am enclosing with this letter a series of written interrogatories for your consideration and response. These interrogatories focus on the ambiguities contained in the Joint Communique and are designed to elicit a candid and specific reply. To facilitate understanding, please supply the Subcommittee with a specific response to each question, and number your answers to correspond to the questions. I would appreciate it if you were to respond to this inquiry by November 1, 1982.

Thanking you for your prompt response to this request, I am

Sincerely yours,

John P. East

John P. East
Chairman

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

STROM THURMOND, S.C., CHAIRMAN
CHARLES McC. MATHIAS, JR., MD.
PAUL LAXALT, NEV.
ORRIN G. HATCH, UTAH
ROBERT DOLE, KANS.
ALAN K. SIMPSON, WYO.
JOHN P. EAST, N.C.
CHARLES E. GRASSLEY, IOWA
JEREMIAH DENTON, ALA.
ARLEN SPECTER, PA.
JOSEPH R. BIDEN, JR., DEL.
EDWARD M. KENNEDY, MASS.
ROBERT C. BYRD, W. VA.
HOWARD M. METZENBAUM, OHIO
DENNIS DeCONCINI, ARIZ.
PATRICK J. LEAHY, VT.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

VINTON DEVANE LIDE, CHIEF COUNSEL
QUENTIN CROMMELIN, JR., STAFF DIRECTOR

SUBCOMMITTEE ON SEPARATION OF POWERS
JOHN P. EAST, N.C., CHAIRMAN
ORRIN G. HATCH, UTAH
JEREMIAH DENTON, ALA.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

JAMES McCLELLAN, CHIEF COUNSEL AND STAFF DIRECTOR

Questions Presented to the Honorable George Shultz, United States Secretary of State, by the Subcommittee on Separation of Powers of the United States Senate Committee on the Judiciary

1. All references to the responses and remarks of Secretary Holdridge are to his testimony at the hearing, August 17, 1982, before the Senate Committee on Foreign Relations.

2. The questions use many quotes from Secretary Holdridge, Secretary Moore, Mr. Davis Robinson, and Communist Chinese news dispatches. Every effort was made to avoid distortion of the meaning of the quoted passages. Wherever you believe that a more complete statement of the context surrounding the quoted passage will provide a clearer understanding of its meaning, please so provide, and then answer the question.

3. Please answer each individual question, and number your answers to correspond to the questions.

4. Please return the answers to these questions by November 1, 1982.

Thank you for your cooperation.

1. Assistant Secretary of State John Holdridge, in his testimony before the Senate Committee on Foreign Relations, August 17, 1982, stated that "we as an administration have made it very plain to the Chinese from the very start that everything we did in reaching this joint communique had to be compatible with the Taiwan Relations Act." (Transcript, p. 45) Is this a true statement? If it is not true, please indicate what the American position was regarding the Taiwan Relations Act during the negotiations with the Chinese leading to the August 17, 1982, Joint Communique.

2. In response to a question by Senator Glenn concerning the commitment of the United States under the Taiwan Relations Act to supply arms to Taiwan, Secretary Holdridge stated "it is based on the premise of need, Senator." (Transcript, p. 62) Is this a correct statement of the State Department's interpretation of the Taiwan Relations Act regarding our arms sales obligations to Taiwan? If it is not correct, was Secretary Holdridge's statement incorrect at the time it was made or has the position of the Department of State changed in the interim? What is the State Department's interpretation of the Taiwan Relations Act, Sections 2 and 3, regarding our arms sales obligations to Taiwan if the position stated by Secretary Holdridge is not correct?

3. In response to a question from Senator Percy inquiring whether the United States will increase arms sales to Taiwan if the Communist Chinese military capability increases, Secretary Holdridge stated, "Let us say that everything is predicated again

on the military situation and the political situation attendant to the Taiwan straits (sic) and the Taiwan question. Again, we will make our judgments based upon these conditions and act accordingly." (Transcript, p. 39) Is this a correct statement of the State Department's interpretation of the United States obligation to provide arms to Taiwan pursuant to the Taiwan Relations Act? If it is not correct, was Secretary Holdridge's statement incorrect at the time it was made or has the position of the Department of State changed in the interim? If the statement of Secretary Holdridge is not correct, what is the correct statement of the State Department's position on the obligation of the United States to provide arms to Taiwan pursuant to the Taiwan Relations Act?

4. In response to a question from Senator Helms concerning the possibility of an increase in arms sales to Taiwan, Secretary Holdridge replied, "We would not decide to elevate sales of arms to Taiwan unless there was a need as defined in the Taiwan Relations Act. And so long as there is no probable military threat, so long as there is the maintenance of a peaceful policy, obviously this has a bearing on the judgment of military need." (Transcript, p. 45) Is this a correct statement of the obligation of the United States to sell defensive arms and services to Taiwan under the Taiwan Relations Act? If it is not correct, was Secretary Holdridge's statement incorrect at the time it was made or has the position of the Department of State changed in the interim? If it is not correct, please state the position of the Department of State regarding the relations

between the PRC's maintenance of a peaceful policy and of no probable military threat to Taiwan on one hand and the determination of Taiwan's security needs pursuant to the Taiwan Relations Act on the other.

5. In response to a question from Senator Helms, Secretary Holdridge referred to Section 3 (a) of the Taiwan Relations Act (22 U.S.C. 3302(a)) and said, "And as President Reagan wrote to Premier Zhao Ziyang on the 5th of April last, that obviously if China continues to maintain a peaceful approach to the Taiwan question, then needs will be reduced commensurately, and there can be a gradual reduction in arms sales." (Transcript, p. 44) Is this a correct statement of the relation between Mainland China's attitude toward Taiwan and the United States' obligation to sell arms to Taiwan under the Taiwan Relations Act? If it is not correct, please state the position of the Department of State regarding the relation between the Mainland Chinese military and political attitude toward Taiwan and the United States obligation to provide Taiwan with defensive arms and services under the Taiwan Relations Act?

6. In light of the statements of Secretary Holdridge cited in question 1 through 5, is it correct to infer that the State Department interprets the terms "needs" and "necessary" which appear in Section Three of the Taiwan Relations Act (22 U.S.C. Section 3302) to mean the defensive arms and services which, in the judgment of the United States, are required to provide an adequate defense against a probable military threat by Mainland

China to the people of Taiwan? If this inference is not accurate, please state the interpretation given to the terms "needs" and "necessary" appearing in Section Three of the Taiwan Relations Act by the State Department. Please cite the authority relied upon for this statutory construction.

7. If the State Department construes the Taiwan Relations Act to make our obligation to sell defensive arms and services to Taiwan depend upon Mainland China's military and political attitude toward Taiwan, please indicate the specific language in the text of the Taiwan Relations Act or in the legislative history of the Act relied upon by the Department to support the construction.

8. In his testimony to the Senate Committee on Foreign Relation, Secretary Holdridge stated, "Thus, our future actions concerning arms sales to Taiwan are premised on the continuation of China's peaceful policy toward a resolution of its differences with Taiwan." (Transcript, p. 29) Is this a correct interpretation of the substance of the August 17, 1982, Joint Communique? If it is not correct, was it incorrect when Secretary Holdridge made the statement or has the interpretation of the State Department changed in the interim? If it is not correct, please indicate how this deviates from the correct interpretation.

9. Is it your understanding that the People's Republic of China agrees with the interpretation of the Joint Communique by the Department of State indicated in Question Eight, whether it be the statement of Secretary Holdridge quoted in Question Eight or,

alternatively, the correct interpretation requested by Question Eight? Please cite the authority supporting your understanding.

10. In an editorial entitled, "Strictly Observe the Agreement and Overcome Obstructions," published on August 17, 1982, in the Chinese Communist Party organ, Renmin Ribao, commenting on the Joint Communique issued that day, the following statements were made:

> Taiwan is China's territory and the method we choose to solve the Taiwan problem is entirely a problem of China's internal affairs. The United States has no right to demand that China undertake any obligation as to the methods it chooses in solving the Taiwan problem, nor should the United States put forth as a prerequisite condition for the cessation of arms sales to Taiwan that China commit itself to not solving the Taiwan problem by any means other than a peaceful one. Otherwise, the United States will be interfering in China's internal affairs.

In a Xinhua dispatch dated August 20, 1982, three days after the Renmin Ribao publication, the Chinese news agency published comments upon Secretary Holdridge's August 17, 1982, testimony before the Senate Committee on Foreign Relations and stated that Secretary Holdridge "made distorted interpretations" of some of the articles of the Communique. The dispatch continued:

> Here it should be pointed out once again that U.S. arms sales to Taiwan and China's efforts for peaceful resolution of the Taiwan issue are two separate questions of an entirely different nature. In what way the Taiwan issue is to be resolved is purely an internal affair of China, brooking no external interference. In the communique, the Chinese Government reiterates its policy of striving to resolve the Taiwan issue peacefully and its stand that the Taiwan issue is China's internal affair. This can in no way be explained as any commitments China made to the United States, and any misrepresentation of a U.S. stop to arms sales

> to Taiwan as having to be premised by peaceful resolution of the Taiwan issue will be continued, premeditated interference in China's internal affairs.

(a) In light of these statements, is the Chinese interpretation of the Joint Communique -- to the effect that the Communique should not be interpreted to mean that the reduction of United States Arms sales to Taiwan and the final resolution of the sales are predicated upon the peaceful resolution of the Taiwan issue -- incorrect?

(b) Is it the position of the United States Department of State that any arms sales to Taiwan since the normalization of diplomatic relations with Mainland China in 1979 constitute violations of Chinese sovereignty?

(c) Is it the position of the United States Department of State that any arms sales to Taiwan since 1979 constitute violations of the principles upon which United States-Chinese diplomatic relations were normalized?

(d) Is it the position of the United States Department of State that the government of the People's Republic of China is not sovereign over the Chinese people on Taiwan?

11. In his remarks to Republican Party candidates on October 6, 1982, President Reagan said, "And if the People's Republic keeps their word that they, for the first time, said that they would try to resolve their differences peacefully and arrive at a peaceful reunification, yes, then there would be no longer any need for us to provide defense weapons, and there would be a decline and an end at that time, but only linked to that promise of a peaceful reunification. Without that, and until that, we

are going to continue to meet our responsibilities to our friends and allies on Taiwan."

On October 10, 1982, in response to President Reagan's remarks, the Chinese Communist Party organ Renmin Ribao stated:

> "Reagan has completely violated the spirit of the joint communique issued by the Chinese and U.S. Governments on 17 August by treating a peaceful solution of the Taiwan problem by China as a precondition for halting U.S. arms sales to Taiwan, and this also conflicts with President Reagan's words about genuinely and sincerely improving relations with the PRC. The Chinese people will absolutely not agree with views like these.
>
> The joint communique of the Chinese and U.S. Governments stipulated the principle of a phased and eventually complete solution to the issue of U.S. arms sales to Taiwan, that is, the United States must gradually reduce its arms sales to Taiwan and completely halt them after a time. There cannot and should not be any preconditions on this point."

(a) Is it the position of the State Department that these statements by President Reagan and the Chinese Communist Party organ indicate agreement that the reduction of American arms sales to Taiwan is dependent upon Red China's peaceful resolution of the Taiwan question? If the answer is "Yes", please indicate the rationale for the belief that the statements indicate agreement by the two nations.

(b) If the position of the State Department is that these statements indicate that the parties disagree, please indicate the nature of the "understanding" manifested in the Joint Communique of August 17, 1982.

12. Regarding the relationship between the Joint Communique and the Taiwan Relations Act, Secretary Holdridge, at the August 17, 1982, hearing made the following statements:

> "...we as an administration have made it very plain to the Chinese from the very start that everything we did in reaching this joint communique had to be compatible with the Taiwan Relations Act." (Transcript, p. 45)
>
> [Senator Glenn: "Let us say if it were transformed to the form of an agreement and submitted to us, do you think it would be consistent with the Taiwan Relations Act?"] Ambassador Holdridge: "Absolutely, Senator Glenn. I have been telling you all along that everything we have done has been using as a yardstick the Taiwan Relations Act." (Transcript, p. 58)
>
> "We undertook these discussions, therefore, with the hope that a formula could be found which would permit the continued growth of our relations with China, but also with the firm resolve that there were principles regarding the security of Taiwan which could not be compromised.
>
> Those principles embodied in the Taiwan Relations Act commit the United States to sell to Taiwan arms necessary to maintain a sufficient self defense capability." (Transcript, pp. 24-25)

Are the various statements correct statements of the State Department's position on the basic relationship between the Taiwan Relations Act and the Joint Communique? If they are not correct, were they incorrect when Secretary Holdridge made them on August 17, 1982, or has the position of the State Department changed in the interim? If they are not correct, please indicate the correct position.

13. In a statement published on August 17, 1982, a spokesman for the Ministry of Foreign Affairs of the People's Republic of China commented upon the Joint Communique issued that same day and said:

> 5. It must be pointed out that the present joint communique is based on the principle embodied in the joint communique on the establishment of diplomatic relations between China and the United States and the basic norms guiding international relations and has nothing to do with the "Taiwan Relations Act" formulated unilaterally by the United States.

Is this a correct statement of the relationship between the Taiwan Relations Act and the Joint Communique?

14. Is it fair to say that the statement of the Chinese Ministry of Foreign Affairs spokesman quoted in the previous question is inconsistent with the relationship between the Taiwan Relations Act and the Joint Communique expressed in the statements of Secretary Holdridge quoted in Question Twelve above? If it is the opinion of the Department of State that the statements of the United States and those of the Chinese are consistent, please indicate briefly the reasons supporting this opinion.

[Re: The term "final resolution" in Paragraph Six of the Joint Communique]

15. In Paragraph Six of the Joint Communique, the United States Government states "that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution." No date certain for this final resolution is indicated. Secretary Holdridge, in the August 17, 1982, hearing before the Senate Committee on Foreign Relations, responded to Senator Glenn's suggestion that "to reduce gradually" may mean a reduction over the next one hundred years by saying, "Except that

we say we do not intend to pursue a long-term course of arms sales to Taiwan." (Transcript, p. 54)

(a) Would a fair translation of the term "final resolution" in this context be "ultimate termination"?

(b) Does the choice of the term "final resolution" by the United States indicate that eventual termination of arms sales is contemplated by the United States if the Red Chinese government continues to pursue a peaceful policy toward Taiwan?

(c) If the answer to either (a) or (b) is negative, what is the official interpretation of the term "final resolution" in Paragraph Six of the Joint Communique?

16. On October 10, 1982, in response to President Reagan's October 6, 1982, remarks to Republican candidates, the Chinese Communist organ Renmin Ribao stated: "The joint communique of the Chinese and U.S. Governments stipulated the principle of a phased and eventually complete solution to the issue of U.S. arms sales to Taiwan, that is, the United States must gradually reduce its arms sales to Taiwan and completely halt them after a time. There cannot and should not be any preconditions on this point."

Is this a correct interpretation of the American policy stated in Paragraph Six of the Joint Communique? If it is not correct, please state in what ways it is incorrect.

17. The spokesman for the Communist Chinese Ministry of Foreign Affairs, in the statement accompanying the issuance of the Joint Communique of August 17, 1982, stated, "The final resolution referred to here certainly implies that the United States arms sales to Taiwan must be completely terminated over a period of time." Is this a correct interpretation of the term "final resolution" in the context of the Joint Communique? If it is not correct, please state in what ways it is incorrect.

18. Secretary Holdridge, in response to questions from Senator Percy -- "Should we assume the U.S. is committed to terminating arms sales? And is this a contravention of the Taiwan Relations Act?" -- stated, "There is nothing said in this communique about termination of arms sales. In fact, that was one of the elements we resisted most vigorously from the very start." (Transcript, p. 74)

(a) Is this statement consistent with the statement of the Chinese Ministry of Foreign Affairs spokesman quoted in the previous question?

(b) If it is consistent, please indicate the rationale for the opinion that the two are consistent.

(c) In light of this statement by Secretary Holdridge, what does the term "final resolution," appearing in Paragraph Six of the Communique, mean?

(d) Is Secretary Holdridge's statement consistent with his statement made elsewhere in the hearing that "we say we do not intend to pursue a long-term course of arms sales to Taiwan?" (Transcript, p. 54)

[Re: The legal status of the Joint Communique]

19. In the testimony of Mr. Davis Robinson, given to the Subcommittee on Separation of Powers, September 27, 1982, and also in the September 13, 1982, letter from Mr. Powell Moore to Senator East, the legal status of the Joint Communique was characterized as "a statement by the President of a policy which he intends to pursue" (Robinson, p. 2), and "a statement of the policy of the President," (Moore, p.1). The rationale for such statements was given as follows:

> It is beyond question that the President possesses full constitutional authority to issue statements of the foreign policy he intends to pursue. Such statements of the Executive's policy are recognized as being at the heart of the Executive's prerogatives in the conduct of U.S. foreign relations. The Communique is an example of such a statement of policy and thus is clearly within the authority of the President. (Robinson, P. 2; substantially the same statement appears in Mr. Moore's letter, p.1)

In short, the State Department's most recent characterization of the Communique is that it is a statement of policy which the Executive Branch intends to pursue. Is this still the view held by the State Department?

20. Departing for a moment from the question at hand regarding the foreign policy of the United States toward China, what is the

nature of policy called "executive's policy" or "policy of the President"? Specifically, is such policy distinct from official United States policy?

21. If "policy of the President" or "Executive's policy" conflicts with official United States policy, does "policy of the President" override official United States policy?

22. Turning again to the issue of the Joint Communique and the Taiwan Relations Act, does the Taiwan Relations Act establish the official United States policy regarding arms sales to Taiwan in Section 2(b)(5), where it states: "It is the policy of the United States...to provide Taiwan with arms of a defensive character"?

23. Is it the position of the State Department that the Congress was exceeding its constitutional powers to regulate commerce with foreign nations or to formulate United States foreign policy when it enacted, and the President signed into law, the Taiwan Relations Act?

24. Is it the position of the State Department that the following statements are consistent: "the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan" (Joint Communique, Paragraph Six); "Except that we say we do not intend to pursue a long-term course of arms sales to Taiwan" (Holdridge Testimony, Transcript, p. 54); and, "It is the policy of the United States -- to provide Taiwan with arms of a defensive character" (Section 2(b)(5) of the Taiwan

Relations Act)? If so, please explain the rationale for the position of the Department of State.

25. Is there any basis either in the text of the Taiwan Relations Act or in its legislative history for the inference that the policy of providing defensive arms to Taiwan set forth in the Act is not to continue indefinitely or until changed by a further act of Congress? If so, please indicate the specific language providing a basis for such an interpretation.

26. In the letter from Secretary Moore and the testimony of Secretary Holdridge and Mr. Robinson, these officials of the Department of State indicate that the Joint Communique is not an international agreement but a "modus vivendi," an "understanding," and a "statement of intention of policy on both sides," and that the Joint Communique "creates no binding rights or obligations under international law."

Secretary Holdridge further testified, however, that the "understanding" manifested in the Joint Communique does give rise to "obligations" on both sides:

> We have come to an agreement -- not an agreement but an understanding with the People's Republic of China, and I think they expect us to carry it out in good faith as we expect them to carry out in good faith the commitment to carry out a fundamental policy of working toward the peaceful resolution of the Taiwan question, so there is an obligation on both sides." (Transcript, p. 50)

While the Communique may not be an international legal agreement enforceable in courts of law, is it not the case that the Communique is intended to create certain reasonable expectations by each party?

27. Secretary Holdridge, in the passage quoted in the previous question, stated that "we expect them to carry out in good faith the commitment to carry out a fundamental policy of working toward the peaceful resolution of the Taiwan question..."(emphasis added).

(a) Is it a fair interpretation of the communique to say that each side made certain "promises" or "commitments" in the Communique?

(b) If it is a fair interpretation, may we not infer that the mutual exchange of promises is the equivalent of an agreement?

(c) If it is not a fair interpretation, is the PRC incorrect when it asserts:

> The United States has given some promises, but we have to wait and see whether or not it will prove its sincerity by its actions. We hope that the U.S. Government will sincerely carry out what it has promised and actually, not perfunctorily, reduce its arms sales to Taiwan."(Renmin Ribao Editorial, August 17, 1982)

(d) If it is not a fair interpretation, is the PRC Councillor and Foreign Minister Huang Hua incorrect when he asserts, "This communique laid down the principles and concrete measures for solving the question of U.S. arms sales to Taiwan. We hope the relevant provisions will be implemented and the commitments fulfilled in earnest so that this issue can be thoroughly settled at an early date." (Speech on October 6, 1982, before the U.S. Council on Foreign Relations in New York)

28. Is it the position of the State Department that the PRC is committed to using only peaceful means to effect a solution of the Taiwan problem or that the PRC is committed only to striving for a peaceful reunification of China?

29. (a) Is it the understanding of the Department of State that a "fundamental policy," interpreted by Secretary Holdridge to mean "unchanging and long term" (Transcript, p. 25) and considered so significant that the United States policy set forth in Paragraph Six of the Communique is in large part based upon China's use of that term (Transcript, p. 73), is the equivalent of a "promise" or a "commitment" by the PRC?

(b) If this is the understanding of the State Department, is the PRC either incorrect or acting in bad faith when its officals assert:

> "This can in no way be explained as any commitments China made to the United States, and any misrepresentation of a U.S. stop to arms sales to Taiwan as having to be premised by peaceful resolution of the Taiwan issue will be a continued, premeditated interference in China's internal affairs." (Xinhua Dispatch, August 20, 1982)
>
> "However, we are not to make any commitment to any country on the peaceful settlement of the Taiwan problem. We consider the Taiwan problem to be China's internal affair. It is up to us to decide how to solve this problem." (Statements made by Chai Zemin, Chinese Ambassador to the United States, in an interview with the CBS Network, as reported in the **China Daily, August** 27, 1982, p. 1)

> "At the same time, our government has repeatedly stated that it will never make any commitment to any foreign country that it will not use force with regard to Taiwan. For it is entirely China's internal affair as to how Taiwan should be reunited with the motherland. It brooks no foreign interference. This is our unswerving stand." (PRC Councillor and Foreign Minister Huang Hua in a speech before the U.S. Council on Foreign Relations, October 6, 1982, in New York)

(c) If this is not the understanding of the State Department, why did the State Department obligate the United States to reduce arms sales to Taiwan in return for the PRC obligation merely to strive for a peaceful reunification of Taiwan to the mainland (Joint Communique, Paragraph 4), rather than in return for a PRC commitment to use only peaceful means to effect the reunification or the resolution?

30. In the hearing before the Subcommittee on East Asian and Pacific Affairs of the Senate Committee on Foreign Relations, May 14, 1980, J. Kenneth Fasick of the General Accounting Office testified regarding the review of the implementation of the Taiwan Relations Act which was made by the GAO at the behest of the Subcommittee. While noting many favorable results of the Act, Mr. Fasick stated:

> Despite these positive signs, two congressional concerns expressed during consideration of the Taiwan Relations Act remain valid: the degree to which PRC reaction influences United States decisions and the degree of executive branch consultation with appropriate Members of Congress.(Report, p. 4)

Regarding PRC influence, has this Administration taken any positive steps to correct any inordinate influence of the PRC that may have existed at the time of Mr. Fasick's GAO report? Specifically what steps have been taken?

31. Since the abrogation of the 1946 United States-Taiwan Air Transportation Agreement of 1979, has the United States abrogated any other international agreements with Taiwan at the insistence of the PRC?

32. Regarding the requirement of Section 3 of the Taiwan Relations Act that the determination of the nature and quantity of the defense articles and services made available to Taiwan be made by both the President and the Congress, is it the position of the State Department that mere consultations by Administration officials with Members of Congress or that mere "monitoring" by designated Congressional Committees (Section 14 of the Act) of the Administration's activities constitutes the institutional determination of the President and the Congress required by Section Three of the Taiwan Relations Act?

33. If it were clear that majorities in each House of Congress did not support the Joint Communique's policy of gradual reduction of arms sales based upon Red China's observance of a peaceful policy toward Taiwan, in the opinion of the State Department what would be the appropriate Congressional action pursuant to the Taiwan Relations Act?

34. In response to a question from Senator Glenn, concerning America's assurance that Communist China would indeed follow a

fundamental policy of working for a peaceful resolution of the Taiwan question, Secretary Holdridge stated:

> Let me say first of all we will be watching the situation carefully through the various means available to us. And when I say watching the situation, I mean in the military sense in terms of deployment and capabilities; I mean in the political sense in terms of policies which are being implemented, taken in conjunction with the situation along the Taiwan strait on both sides, the military capability for Taiwan -- all of these things go into the equation. And as I say, we will be watching it very carefully...(Transcript, pp. 52-53)

(a) Have any particular means of verification been established to allow the United States to determine if China is adhering to its important policy of working for a peaceful resolution of the Taiwan issue?

(b) If no verification procedures and means have been implemented, and in view of the fact that verification of other aspects of Chinese domestic activities is quite difficult, is it the position of the State Department that no special means of verification of this Chinese policy are necessary?

35. Would the United States view a peaceful but involuntary reunification of Taiwan by the Peking Regime as an acceptable "peaceful resolution" of the so-called Taiwan issue?

36. With the exception of the U.S.-Taiwan F5E co-production agreement, has the Reagan Administration entered into any agreements to sell arms to Taiwan? Please indicate the nature of such agreements. If the Administration has not entered into any

arms sales agreement with Taiwan, please indicate the reasons for such failure.

37. With the exception of training incident to F5E co-production arrangements, has the Administration made available any "defense services" (Sec.3(a) of the Taiwan Relations Act) in the form of military training to Taiwan military personnel?

38. Section 10(b) of the Taiwan Relations Act requests the President "to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979." As of that date, fourteen Republic of China consulates existed in the United States. Presently only nine Taiwan offices exist, although Taiwan has requested that all fourteen former consulates be opened as offices of Taiwan's instrumentality. Why has this Administration not acceded to the appropriate legislative requests to extend the same number of offices as were operated in the United States by Taiwan prior to January 1, 1979?

ANSWERS TO QUESTIONS REGARDING TAIWAN ARMS SALES

1. Yes. The statement quoted from Assistant Secretary Holdridge's August 17, 1982, testimony before the Senate Committee on Foreign Relations is an accurate statement of the U.S. position during discussions with the Chinese leading to the August 17 Joint Communique. The United States made clear to the Chinese throughout those discussions that the Communique had to be consistent with the Taiwan Relations Act.

2. Yes. The statement quoted from Assistant Secretary Holdridge's testimony is a correct statement of the Department's interpretation of Section 3 of the Taiwan Relations Act. Specifically, it reflects the provision of Section 3(a) that the United States will make available to Taiwan such defense articles and services as may be necessary to enable Taiwan to maintain a sufficient self-defense capability and the provision of Section 3(b) that determinations regarding the nature and quantity of defense articles made available to Taiwan shall be based solely upon the needs of Taiwan.

3. Yes. The quotation from Assistant Secretary Holdridge's testimony is a correct statement of the Department's interpretation of Section 3 of the Taiwan Relations Act. As stated above, under Section 3 of the Act, determinations as to the defense articles and services that may be necessary to enable Taiwan to maintain a sufficient self-defense capability are to be based upon an assessment of the needs of Taiwan.

4. The Department considers that the statement quoted from

Assistant Secretary Holdridge's testimony correctly interprets Section 3 of the Act, as stated above.

5. Assistant Secretary Holdridge's statement quoted in Question 5 is an accurate statement, as more fully explained in Question 7, below.

6. Section 3 of the Taiwan Relations Act provides that the U.S. will make available to Taiwan such defense articles and services as may be required to enable it to maintain a sufficient self-defense capability, based solely upon an assessment of the needs of Taiwan. Any military threat to the people of Taiwan would be relevant to such an assessment.

7. The State Department does not construe the Taiwan Relations Act as it is characterized in Question No. 7. As noted in response to Question 3, Section 3(b) of the Act specifies that determinations regarding arms sales to Taiwan are to be based on an assessment of Taiwan's needs. In addition, Section 3(a) states that the United States will make available "such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." A determination of Taiwan's defense needs and of the sufficiency of its self-defense capability requires an assessment of the nature of the military threat confronting it. This necessarily requires an assessment of the military capacity of the PRC and its policy towards Taiwan.

8. Yes. The Department considers the statement quoted from Assistant Secretary Holdridge's testimony to be a correct interpretation of the August 17, 1982, Joint Communique. It reflects the fact that the policy of the United States set

forth in paragraph 6 of the Communique is premised on statements of Chinese peaceful policy towards Taiwan set forth in paragraphs 4 and 5 of the Communique.

9. The August 17 Joint Communique contains parallel statements of policy by China and the United States. As noted above, Assistant Secretary Holdridge's testimony to the Senate Committee on Foreign Relations accurately reflects the United States view of the Communique. While the Chinese in their public statements have expressed views which are not identical in all respects to the U.S. views, we made clear to the Chinese during the discussions leading up to the Communique the United States position and that we intend to act on the basis of it.

10. Question 10 contains four parts:

a. As noted above, the August 17, 1982, Joint Communique contains parallel statements of policy by China and the United States. The Chinese fully understand that the statements of U.S. policy contained in paragraph 6 in the Communique concerning a gradual reduction of arms sales by the United States to Taiwan is predicated upon a continued peaceful approach by the Peoples Republic of China towards Taiwan as set forth in paragraphs 4 and 5 of the Communique.

b. The Department does not consider that U.S. arms sales to Taiwan constitute a violation of Chinese sovereignty.

c. No. The Department does not consider that U.S. arms sales to Taiwan violate the principles upon which the U.S. and China established diplomatic relations.

d. The United States takes no position on the question of Taiwan's sovereignty. We regard this as a question to be determined by the Chinese people on both sides of the strait.

11. Question 11 is in two parts:

a. The August 17, 1982, Joint Communique to which the statements by President Reagan and the Chinese communist party organ quoted in Question 11 are addressed, is not an international agreement between the United States and the Peoples Republic of China. As noted above, the Communique contains parallel statements of policy which each Government intends to pursue. Although the Chinese Government may express its own view of the relationship of the U.S. policy statements in paragraph 6 of the Communique to the Chinese policy statements contained in paragraphs 4 and 5 of the Communique, the U.S. position concerning the relationship of these statements has been made clear to the Chinese. In our view, this relationship is also clearly expressed in the introductory language of paragraph 6 of the Communique. The United States intends to implement the Communique in accordance with the statement of President Reagan and the testimony of Assistant Secretary Holdridge quoted in Question 11 and previous questions in your letter.

b. As noted above, the Communique is not an agreement between the two Governments, but contains parallel statements of their respective policies. Paragraph 4 of the Communique contains a statement of the Chinese Government's fundamental policy of striving for peaceful reunification. Paragraph 6 of the Communique, contains a statement of United States policy concerning its future arms sales to Taiwan, predicated on the Chinese peaceful policy.

12. Yes. The statements made by Assistant Secretary Holdridge which are quoted in Question 12 are correct statements concerning the consistency of the Joint Communique with the Taiwan Relations Act.

13. The Taiwan Relations Act is a law of the United States. The President has made clear that he will implement U.S. policy towards Taiwan, including the U.S. policy reflected in the Joint Communique, in conformity with the provisions of the Act. Although the Taiwan Relations Act has no legal status under the law of China and the Chinese do not regard it as related to the Communique, they fully understand, as noted above, that the United States regards the Communique as fully consistent with the Act and that it intends to implement the U.S. policies reflected in the Communique in accordance with the Act.

14. See answer to Question 13.

15. Question 15 has three parts:

a. No. The term "final resolution" in paragraph 6 of the Joint Communique is not defined in the Communique and should not be read as synonymous with "ultimate termination" of U.S. arms sales to Taiwan. There is no reference to termination in the Communique and the Communique specifies neither the form nor a date for "final resolution."

b. As noted above, the Communique does not provide for termination of arms sales to Taiwan. The reference to "final resolution" in paragraph 6 reflects the fact that the Communique represents an effort by both Governments to narrow and ultimately resolve their differences on the question of U.S. arms sales to Taiwan. The time and method of such resolution is not specified in the Communique.

c. As noted above, the term "final resolution" refers to a resolution of the differences between the U.S. and China on the question of U.S. arms sales to Taiwan. The Communique does not provide for termination of such arms sales and does not specify the time or form that a resolution of these differences might take.

16. No. The October 10 Chinese statement quoted in Question 16 is not a correct statement of U.S. policy contained in paragraph 6 of the Joint Communique. In the discussions leading to the August 17, 1982, Joint Communique the Chinese pressed the United States to agree to specify a date in the future by which U.S. arms sales to Taiwan would terminate. The United States did not agree to specify a date by which U.S. arms sales to Taiwan would be terminated and no such provision is contained in the Joint Communique. Moreover, as noted above, the U.S. policy on future U.S. arms sales to Taiwan in paragraph 6 of the Communique is clearly predicated on the Chinese fundamental policy of seeking a peaceful resolution of the Taiwan question as contained in paragraph 4 of the Communique.

17. See answers to Questions 15 and 16. While a "final resolution" referred to in the Communique might take the form of a termination of U.S. arms sales to Taiwan were the Chinese on both sides of the Taiwan Strait to come to a peaceful resolution of their differences, thereby eliminating Taiwan's needs for defensive arms from the United States, this is not the only form such a resolution might take, nor is it in any way mandated by the Communique.

18. This question is in four parts:

a. As noted above, the Chinese statement referred to in Question 17 reflects the Chinese view that the "final resolution" they are seeking is the termination of U.S. arms sales to Taiwan. As explained above and as set forth in the statement by Assistant Secretary Holdridge quoted in Question 18, the Communique does not provide for termination of U.S. arms sales to Taiwan and the U.S. has consistently declined to commit itself to this form of resolution of U.S.-China differences on the question of U.S. arms sales to Taiwan.

b. The Chinese statement, as noted above, goes beyond the Communique in expressing the manner in which the Chinese would like to see our differences resolved on this issue. Assistant Secretary Holdridge's statement refers to the terms of the Communique and to the consistent U.S. position of declining to specify in the Commmunique or otherwise agree to any particular manner for resolution of U.S.-China differences on this issue.

c. See answer to Question 15 above.

d. Yes. The two statements made by Assistant Secretary Holdridge referred to in this question are consistent. As provided in paragraph 6 of the Communique, the United States does not seek to carry out a long-term policy of arms sales to Taiwan and, premised on the Chinese peaceful policy towards Taiwan contained in paragraph 4 of the Communique, intends to implement a policy of gradual reduction of arms sales to Taiwan. At the same time, the Communique does not provide for termination of U.S. arms sales to Taiwan and the United States has consistently declined to agree to terminate such sales.

19. Yes. The Department continues to regard the Communique as embodying a statement of the policy which the President intends to pursue regarding U.S. arms sales to Taiwan, predicated on the parallel statements of Chinese policy contained in the Communique.

20. The "policy of the President" is the policy which the President adopts in the exercise of his constitutional and statutory authority. Such policy is the policy of the United States. As noted above, the policies of the United States expressed in the Joint Communique are fully consistent with the Taiwan Relations Act, and the President has clearly stated his intention of implementing these policies in a manner consistent with U.S. Law.

21. As stated in response to Question 20, there is no distinction between the policy of the President (or Executive) and the policy of the United States concerning U.S. arms sales to Taiwan.

22. Section 2(b)(5) of the Taiwan Relations Act enunciates in general terms the policy of the United States to provide Taiwan with arms of a defensive character. Section 3 of the Act specifies how that policy is to be implemented. As noted above, the statements of U.S. policy in the Joint Communique are consistent with the Act.

23. The Taiwan Relations Act was enacted following establishment by the President of diplomatic relations with the People's Republic of China in order to ensure the effective implementation of the President's policy of continuing commercial, cultural, and other unofficial relations with the people on Taiwan. In accordance with established norms of statutory construction, the Department has construed the Act as being consistent with the constitutional powers of the Congress and the President. The Department's views concerning the Act have been the subject of extensive hearings before the committees of Congress specified in Section 14 of the Act as

having primary oversight responsibility for implementation of the Act, as well as before the Subcommittee on Separation of Powers of the Senate Judiciary Committee.

24. The Department regards the statements referred to in Question 24 as consistent. The policy set forth in Section 2(b)(5) of the Taiwan Relations Act is implemented by Section 3 which provides that the United States will make available to Taiwan such defensive arms as may be necessary in order to enable it to maintain a sufficient self-defense capability, based on an assessment of Taiwan's needs. As noted above, such needs must be assessed in light of prevailing circumstances. No level of arms is specified, as needs may change over time. The statement in paragraph 6 of the Communique that the United States does not seek to carry out a long-term policy of arms sales to Taiwan is fully consistent with the Act. The Communique further states that the U.S. expects to be able gradually to reduce such sales, predicated on a continuation by China of its fundamental peaceful policy toward Taiwan. As stated by the President and Assistant Secretary Holdridge, this policy will be implemented in accordance with the Act, i.e., based on an assessment of Taiwan's defense needs.

25. See answer to question 24.

26. Yes, while the Joint Communique is not an international agreement, it contains parallel statements by the United States and the People's Republic of China of policies which our respective Governments intend to pursue. Such a document may create reasonable expectations by each party. On our part, we expect the Chinese to maintain their policy of seeking a peaceful resolution of their differences with Taiwan.

27. This question is in four parts:

a. The Communique does not contain "promises" or "commitments" in the sense of binding obligations under international law. As noted above, the Communique contains statements of policy which each Government intends to pursue and which the other Government reasonably may expect it to carry out. It is in this sense that Assistant Secretary Holdridge referred to our expectation that the Chinese would carry out in good faith their "commitment" to their fundamental policy of working toward a peaceful resolution of the Taiwan question.

b. See answer to Question 27a.

c. See answer to Question 27a.

d. See answer to Question 27a.

28. The Chinese have set forth in the Communique their fundamental policy of striving for peaceful reunification. Our interpretation of the Chinese statement is that in striving for peaceful resolution, the Chinese will use only peaceful means.

29. See answers to Questions 27a and 28.

30. Naturally, in developing U.S.-China policy, we take into account the views of the Chinese, as we do the views of other countries, when we are deciding policies of direct relevance to them. However, our foreign policy decisions on China, as on all other foreign policy matters, ultimately are made on the basis of U.S. interests. We do not consider that there has been an "inordinate" influence by the PRC in our policy-making process, or that any corrective steps are necessary.

31. The 1945 Air Transport Agreement was not abrogated. It was badly out of date and therefore was replaced by a modern Air Transport Agreement concluded in accordance with Section 6(a) of the Taiwan Relations Act between the American Institute on Taiwan (ATT) and the Coordination Council for North American Affairs (CCNAA) on March 5, 1980. The Mutual Defense Treaty of 1954 was terminated in accordance with its terms on December 31, 1979, following one year's notice by the United States of intention to terminate. This termination was effected in connection with former President Carter's decision to recognize the People's Republic of China as the sole legal government of China. Other agreements have either expired, become obsolete, or have been replaced by new agreements between the AIT and the CCNAA since 1979 in the normal course of events, but none has been abrogated at the insistence of the PRC.

32. Section 3 of the Taiwan Relations Act establishes no procedures through which an "institutional determination" is to be made, other than to specify that it is to be done "in accordance with procedures established by law." The only applicable procedures are contained in the Arms Export Control Act, with which we have fully complied. In addition, Section 14 of the Taiwan Relations Act, in conjunction with Section 3, contemplates consultations between the Executive and the Congress on the implementation of the Act, including the provisions pertaining to arms sales. As noted in testimony by the Legal Adviser before the Subcommittee on Separation of Powers of the Senate Judiciary Committee on September 27, there have been regular consultations on this subject with the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs, the two Committees charged with primary oversight responsibility under Section 14.

33. The State Department would not wish to express an opinion regarding what might be appropriate Congressional action under the hypothetical circumstances set forth in the question.

34. Our verification methods are already in place.

35. While it is difficult to envision the circumstances described in the question and to respond to such a hypothetical question, our policy on this matter is clear and consistent. As President Reagan said on August 17: "The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful."

36. Yes. Arms sales to Taiwan continue. These sales are reported to Congress pursuant to the Arms Export Control Act.

37. Yes. Training related to defense equipment provided to Taiwan continues on a routine basis.

38. Presently, Taiwan has ten offices in the United States. The latest, in Boston, was opened November 10. There are no pending requests from Taiwan for additional offices.

Senator EAST. Thank you, gentlemen. I appreciate your coming. We stand adjourned.

[Whereupon, at 12:15 p.m., the subcommittee adjourned, subject to the call of the Chair.]

APPENDIX

EXHIBIT A.--DOCUMENTS RELATING TO THE TAIWAN COMMUNIQUE

SHANGHAI COMMUNIQUE

[From Public Papers of the Presidents]

71 Joint Statement Following Discussions With Leaders of the People's Republic of China. *February* 27, 1972

PRESIDENT Richard Nixon of the United States of America visited the People's Republic of China at the invitation of Premier Chou En-lai of the People's Republic of China from February 21 to February 28, 1972. Accompanying the President were Mrs. Nixon, U.S. Secretary of State William Rogers, Assistant to the President Dr. Henry Kissinger, and other American officials.

President Nixon met with Chairman Mao Tse-tung of the Communist Party of China on February 21. The two leaders had a serious and frank exchange of views on Sino-U.S. relations and world affairs.

During the visit, extensive, earnest, and frank discussions were held between President Nixon and Premier Chou En-lai on the normalization of relations between the United States of America and the People's Republic of China, as well as on other matters of interest to both sides. In addition, Secretary of State William Rogers and Foreign Minister Chi P'eng-fei held talks in the same spirit.

President Nixon and his party visited Peking and viewed cultural, industrial and agricultural sites, and they also toured Hangchow and Shanghai where, continuing discussions with Chinese leaders, they viewed similar places of interest.

The leaders of the People's Republic of China and the United States of America found it beneficial to have this opportunity, after so many years without contact, to present candidly to one another their views on a variety of issues. They reviewed the international situation in which important changes and great upheavals are taking place and expounded their respective positions and attitudes.

The U.S. side stated: Peace in Asia and peace in the world requires efforts both to reduce immediate tensions and to eliminate the basic causes of conflict. The United States will work for a just and secure peace: just, because it fulfills the aspirations of peoples and nations for freedom and progress; secure, because it removes the danger of foreign aggression. The United States supports individual freedom and social progress for all the peoples of the world, free of outside pressure or intervention. The United States believes that the effort to reduce tensions is served by improving communication between countries that have different ideologies so as to lessen the risks of confrontation through accident, miscalculation or misunderstanding. Countries should treat each other with mutual respect and be willing to compete peacefully, letting performance be the ultimate judge. No country should claim infallibility and each country should be prepared to re-examine its own attitudes for the common good. The United States stressed that the peoples of Indochina should be allowed to determine their destiny without outside intervention; its constant primary objective has been a negotiated solution; the eight-point proposal put forward by the Republic of Vietnam and the United States on January 27, 1972 represents a basis for the attainment of that objective; in the absence of a negotiated settlement the United States envisages the ultimate withdrawal of all U.S. forces from the region consistent with the aim of self-determination for each country of Indochina. The United States will maintain its close ties with and support for the Republic of Korea; the United States will support efforts of the Republic of Korea to seek a relaxation of tension and increased communication in the Korean peninsula. The United States places the highest value on its friendly relations with Japan; it will continue to develop the existing close bonds. Consistent with the United Nations Security Council Resolution of December 21, 1971, the United States favors the continuation of the ceasefire between India and Pakistan and the withdrawal of all military forces to within their own territories and to their own sides of the ceasefire line in Jammu and Kashmir; the United States supports the right of the peoples of South Asia to shape their own future in peace, free of military threat, and without having the area become the subject of great power rivalry.

The Chinese side stated: Wherever there is oppression, there is resistance. Countries want independence, nations want liberation and the people want revolution—this has become the irresistible trend of history. All nations, big or small, should be equal; big nations should not bully the small and strong nations should not bully the weak. China will never be a superpower and it opposes hegemony and power politics of any kind. The Chinese side stated that it firmly supports the struggles of all the oppressed people and nations for freedom and liberation and that the people of all countries have the right to choose their social systems according to their own wishes and the right to safeguard the independence, sovereignty and territorial integrity of their own countries and oppose foreign aggression, interference, control and subversion. All foreign troops should be withdrawn to their own countries.

The Chinese side expressed its firm support to the peoples of Vietnam, Laos, and Cambodia in their efforts for the attainment of their goal and its firm support to the seven-point proposal of the Provisional Revolutionary Government of the Republic of South Vietnam and the elaboration of February this year on the two key problems in the proposal, and to the Joint Declaration of the Summit Conference of the Indochinese Peoples. It firmly supports the eight-point program for the peaceful unification of Korea put forward by the Government of the Democratic People's Republic of Korea on April 12, 1971, and the stand for the abolition of the "U.N. Commission for the Unification and Rehabilitation of Korea." It firmly opposes the revival and outward expansion of Japanese militarism and firmly supports the Japanese people's desire to build an independent, democratic, peaceful and neutral Japan. It firmly maintains that India and Pakistan should, in accordance with the United Nations resolutions on the India-Pakistan question, immediately withdraw all their forces to their respective territories and to their own sides of the ceasefire line in Jammu and Kashmir and firmly supports the Pakistan Government and people in their struggle to preserve their independence and sovereignty and the people of Jammu and Kashmir in their struggle for the right of self-determination.

There are essential differences between China and the United States in their social systems and foreign policies. However, the two sides agreed that countries, regardless of their social systems, should conduct their relations on the principles of respect for the sovereignty and territorial integrity of all states, nonaggression against other states, noninterference in the internal affairs of other states, equality and mutual benefit, and peaceful coexistence. International disputes should be settled on this basis, without resorting to the use or threat of force. The United States and the People's Republic of China are prepared to apply these principles to their mutual relations.

With these principles of international relations in mind the two sides stated that:

—progress toward the normalization of relations between China and the United States is in the interests of all countries;

—both wish to reduce the danger of international military conflict;

—neither should seek hegemony in the Asia-Pacific region and each is opposed to efforts by any other country or group of countries to establish such hegemony; and

—neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

Both sides are of the view that it would be against the interests of the peoples of the world for any major country to collude with another against other countries, or for major countries to divide up the world into spheres of interest.

The two sides reviewed the long-standing serious disputes between China and the United States. The Chinese side reaffirmed its position: The Taiwan question is the crucial question obstructing the normalization of relations between China and the United States; the Government of the People's Republic of China is the sole legal government of China; Taiwan is a province of China which has long been returned to the motherland; the liberation of Taiwan is China's internal affair in which no other country has the right to interfere; and all U.S. forces and military installations must be withdrawn from Taiwan. The Chinese Government firmly opposes any activities which aim at the creation of "one China, one Taiwan," "one China, two governments," "two Chinas," and "independent Taiwan" or advocate that "the status of Taiwan remains to be determined."

The U.S. side declared: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position. It reaffirms its interest in a peaceful settlement of the Taiwan question by the Chinese themselves. With this prospect in mind, it affirms the ultimate objective of the withdrawal of all U.S. forces and military installations from Taiwan. In the meantime, it will progressively reduce its forces and military installations on Taiwan as the tension in the area diminishes.

The two sides agreed that it is desirable to broaden the understanding between the two peoples. To this end, they discussed specific areas in such fields as science, technology, culture, sports and journalism, in which people-to-people contacts and exchanges would be mutually beneficial. Each side undertakes to facilitate the further development of such contacts and exchanges.

Both sides view bilateral trade as another area from which mutual benefit can be derived, and agreed that economic relations based on equality and mutual benefit are in the interest of the people of the two countries. They agree to facilitate the progressive development of trade between their two countries.

The two sides agreed that they will stay in contact through various channels, including the sending of a senior U.S. representative to Peking from time to time for concrete consultations to further the normalization of relations between the two countries and continue to exchange views on issues of common interest.

The two sides expressed the hope that the gains achieved during this visit would open up new prospects for the relations between the two countries. They believe that the normalization of relations between the two countries is not only in the interest of the Chinese and American peoples but also contributes to the relaxation of tension in Asia and the world.

President Nixon, Mrs. Nixon and the American party expressed their appreciation for the gracious hospitality shown them by the Government and people of the People's Republic of China.

NOTE: The joint statement was released at Shanghai, People's Republic of China.

On the same day, the White House released a statement by Press Secretary Ronald L. Ziegler and the transcript of a news briefing on the joint statement. Participants in the news briefing were Henry A. Kissinger, Assistant to the President for National Security Affairs, and Marshall Green, Assistant Secretary of State for East Asian and Pacific Affairs. The statement and the transcript are printed in the Weekly Compilation of Presidential Documents (vol. 8, pp. 480 and 476).

On February 14, 1972, the White House released a statement by Press Secretary Ziegler on further relaxation of trade with the People's Republic of China. The statement is printed in the Weekly Compilation of Presidential Documents (vol. 8, p. 438).

On February 21, the White House released a statement and the transcript of a news briefing by Press Secretary Ziegler on the President's meeting with Chairman Mao Tse-tung. The statement is printed in the Weekly Compilation of Presidential Documents (vol. 8, p. 466).

STATEMENT BY PRESIDENT JIMMY CARTER TO THE NATION, DECEMBER 15, 1978

I would like to read a joint communique which is being simultaneously issued in Peking at this very moment by the leaders of the People's Republic of China.

The United States of America and the People's Republic of China have agreed to recognize each other and to establish diplomatic relations as of January 1, 1979.

The United States of America recognizes the Government of the People's Republic of China as the sole legal Government of China. Within this context, the people of the United States will maintain cultural, commercial, and other unofficial relations with the people of Taiwan.

The United States of America and the People's Republic of China reaffirm the principles agreed on by the two sides in the Shanghai Communique and emphasize once again that:

Both wish to reduce the danger of international military conflict.

Neither should seek hegemony in the Asia-Pacific region or in any other region of the world and each is opposed to efforts by any other country or group of countries to establish such hegemony.

Neither is prepared to negotiate on behalf of any third party or to enter into agreements or understandings with the other directed at other states.

The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China.

Both believe that normalization of Sino-American relations is not only in the interest of the Chinese and American people but also contributes to the cause of peace in Asia and the world.

The United States of America and the People's Republic of China will exchange Ambassadors and establish Embassies on March 1, 1979.

Yesterday, our country and the People's Republic of China reached this final historic agreement. On January 1, 1979, a little more than 2 weeks from now, our two governments will implement full normalization of diplomatic relations.

As a nation of gifted people who comprise about one-fourth of the total population of the Earth, China plays, already, an important role in world affairs, a role that can only grow more important in the years ahead.

We do not undertake this important step for transient tactical or expedient reasons. In recognizing the People's Republic of China, that it is the single Government of China, we are recognizing simple reality. But far more is involved in this decision than just the recognition of a fact.

Before the estrangement of recent decades, the American and the Chinese people had a long history of friendship. We've already begun to rebuild some of those previous ties. Now our rapidly expanding relationship requires the kind of structure that only full diplomatic relations will make possible.

The change that I'm announcing tonight will be of great long-term benefit to the peoples of both our country and China—and, I believe, to all the peoples of the world. Normalization—and the expanded commercial and cultural relations that it will bring—will contribute to the well-being of our own nation, to our own national interest, and it will also enhance the stability of Asia. These more positive relations with China can benefically affect the world in which we live and the world in which our children will live.

We have already begun to inform our allies and other nations and the Members of the Congress of the details of our intended action. But I wish also tonight to convey a special message to the people of Taiwan—I have already communicated with the leaders in Taiwan—with whom the American people have had and will have extensive, close, and friendly relations. This is important between our two peoples.

As the United States asserted in the Shanghai communique of 1972, issued on President Nixon's historic visit, we will continue to have an interest in the peaceful resolution of the Taiwan issue. I have paid special attention to insuring that normalization of relations between our country and the People's Republic will not jeopardize the well-being of the people of Taiwan. The people of our country will maintain our current commercial, cultural, trade, and other relations with Taiwan through nongovernmental means. Many other countries in the world are already successfully doing this.

These decisions and these actions open a new and important chapter in our country's history and also in world affairs.

To strengthen and to expedite the benefits of this new relationship between China and the United States, I am pleased to announce that Vice Premier Teng has accepted my invitation and will visit Washington at the end of January. His visit will give our governments the opportunity to consult with each other on global issues and to begin working together to enhance the cause of world peace.

These events are the final result of long and serious negotiations begun by President Nixon in 1972 and continued under the leadership of President Ford. The results bear witness to the steady, determined, bipartisan effort of our own country to build a world in which peace will be the goal and the responsibility of all nations.

The normalization of relations between the United States and China has no other purpose than this: the advancement of peace. It is in this spirit, at this season of peace, that I take special pride in sharing this good news with you tonight.

U.S. STATEMENT

As of January 1, 1979, the United States of America recognizes the People's Republic of China as the sole legal government of China. On the same date, the People's Republic of China accords similar recognition to the United States of America. The United States thereby establishes diplomatic relations with the People's Republic of China.

On that same date, January 1, 1979, the United States of America will notify Taiwan that it is terminating diplomatic relations and that the Mutual Defense Treaty between the U.S. and the Republic of China is being terminated in accordance with the provisions of the Treaty. The United States also states that it will be withdrawing its remaining military personnel from Taiwan within four months.

In the future, the American people and the people of Taiwan will maintain commercial, cultural, and other relations without official diplomatic relations.

The Administration will seek adjustments to our laws and regulations to permit the maintenance of commercial, cultural ,and other non-governmental relationships in the new circumstances that will exist after normalization.

The United States is confident that the people of Taiwan face a peaceful and prosperous future. The United States continues to have an interest in the peaceful resolution of the Taiwan issue and expects that the Taiwan issue will be settled peacefully by the Chinese themselves.

The United States believes that the establishment of diplomatic relations with the People's Republic will contribute to the welfare of the American people, to the stability of Asia where the United States has major security and economic interest, and to the peace of the entire world.

TEXT OF MUTUAL DEFENSE TREATY BETWEEN THE UNITED STATES OF AMERICA AND THE REPUBLIC OF CHINA

Signed at Washington December 2, 1954; Ratification advised by the Senate of the United States of America February 9, 1955; Ratified by the President of the United States of America February 11, 1955; Ratified by the Republic of China February 15, 1955; Ratifications exchanged at Taipei March 3, 1955; Proclaimed by the President of the United States of America April 1, 1955; Entered into force March 3, 1955

The Parties to this Treaty,

Reaffirming their faith in the purposes and principles of the Charter of the United Nations and their desire to live in peace with all peoples and all Governments, and desiring to strengthen the fabric of peace in the West Pacific Area,

Recalling with mutual pride the relationship which brought their two peoples together in a common bond of sympathy and mutual ideals to fight side by side against imperialist aggression during the last war,

Desiring to declare publicly and formally their sense of unity and their common determination to defend themselves against external armed attack, so that no potential aggressor could be under the illusion that either of them stands alone in the West Pacific Area, and

Desiring further to strengthen their present efforts for collective defense for the preservation of peace and security pending the development of a more comprehensive system of regional security in the West Pacific Area,

Have agreed as follows:

ARTICLE I

The Parties undertake, as set forth in the Charter of the United Nations, to settle any international dispute in which they may be involved by peaceful means in such a manner that international peace, security and justice are not endangered and to refrain in their international relations from the threat or use of force in any manner inconsistent with the purposes of the United Nations.

ARTICLE II

In order more effectively to achieve the objective of this Treaty, the Parties separately and jointly by self-help and mutual aid will maintain and develop their individual and collective capacity to resist armed attack and communist subversive activities directed from without against their territorial integrity and political stablity.

ARTICLE III

The Parties undertake to strengthen their free institutions and to cooperate with each other in the development of economic progress and social well-being and to further their individual and collective efforts towards these ends.

ARTICLE IV

The Parties, through their Foreign Ministers or their deputies, will consult together from time to time regarding the implementation of this Treaty.

ARTICLE V

Each Party recognizes that an armed attack in the West Pacific Area directed against the territories of either of the Parties would be dangerous to its own peace and safety and declares that it would act to meet the common danger in accordance with its constitutional processes.

Any such armed attack and all measures taken as a result thereof shall be immediately reported to the Security Council of the United Nations. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security.

ARTICLE VI

For the purposes of Articles II and V, the terms "territorial" and "territories" shall mean in respect of the Republic of China, Taiwan and the Pescadores; and in respect of the United States of America, the island territories in the West Pacific under its jurisdiction. The provisions of Articles II and V will be applicable to such other territories as may be determined by mutual agreement.

ARTICLE VII

The Government of the Republic of China grants, and the Government of the United States of America accepts, the right to dispose such United States land, air and sea forces in an about Taiwan and the Pescadores as may be required for their defense, as determined by mutual agreement.

ARTICLE VIII

This Treaty does not affect and shall not be interpreted as affecting in any way the rights and obligations of the Parties under the Charter of the United Nations or the responsibility of the United Nations for the maintenance of international peace and security.

ARTICLE IX

This Treaty shall be ratified by the United States of America and the Republic of China in accordance with their respective constitutional processes and will come into force when instruments of ratification thereof have been exchanged by them at Taipei.

ARTICLE X

This Treaty shall remain in force indefinitely. Either Party may terminate it one year after notice has been given to the other Party.

EXCHANGE OF NOTES

DEPARTMENT OF STATE,
Washington, D.C., December 10, 1954.

His Excellency GEORGE K. C. YEH,
Minister of Foreign Affairs of the Republic of China.

EXCELLENCY: I have the honor to refer to recent conversations between representatives of our two Governments and to confirm the understanding reached as a result of those conversations, as follows:

The Republic of China effectively controls both the territory described in Article VI of the Treaty of Mutual Defense between the Republic of China and the the United States of America signed on December 2, 1954, at Washington and other territory. It possesses with respect to all territory now and hereafter under its control the inherent right of self-defense. In view of the obligations of the two Parties under the said Treaty, and of the fact that the use of force from either of these areas by either of the Parties affects the other, it is agreed that such use of force will be a matter of joint agreement, subject to action of an emergency character which is clearly an exercise of the inherent right of self-defense. Military elements which are a product of joint effort and contribution by the two Parties will not be removed from the territories described in Article VI to a degree which would substantially diminish the defensibility of such territories without mutual agreement.

Accept, Excellency, the assurances of my highest consideration.

/s/ JOHN FOSTER DULLES,
Secretary of State of the United States of America.

His Excellency JOHN FOSTER DULLES,
Secretary of State of the United States of America.

EXCELLENCY: I have the honor to acknowledge the receipt of Your Excellency's Note of today's date, which reads as follows:

"I have the honor to refer to recent conversations between representatives of our two Governments and to confirm the understandings reached as a result of those conversations, as follows:

"The Republic of China effectively controls both the territory described in Article VI of the Treaty of Mutual Defense between the Republic of China and the United States of America signed on December 2, 1954, at Washington and other territory. It possesses with respect to all territory now and hereafter under its control the inherent right of self-defense. In view of the obligations of the two Parties under the said Treaty and of the fact that the use of force from either of these areas by either of the Parties affects the other, it is agreed that such use of force will be a matter of joint agreement, subject to action of an emergency character which is clearly an exercise of the inherent right of self-defense. Military elements which are a product of joint effort and contribution by the two Parties will not be removed from the territories described in Article VI to a degree which would substantially diminish the defensibility of such territories without mutual agreement."

I have the honor to confirm, on behalf of my Government, the understanding set forth in Your Excellency's Note under reply.

I avail myself of this opportunity to convey to Your Excellency the assurance of my highest consideration.

GEORGE K. C. YEH,
Minister for Foreign Affairs of the Republic of China.

United States Relations With the People on Taiwan

Memorandum From the President. December 30, 1978

Memorandum for All Departments and Agencies

Subject: Relations with the People on Taiwan

As President of the United States, I have constitutional responsibility for the conduct of the foreign relations of the nation. The United States has announced that on January 1, 1979, it is recognizing the government of the People's Republic of China as the sole legal government of China and is terminating diplomatic relations with the Republic of China. The United States has also stated that, in the future, the American people will maintain commercial, cultural and other relations with the people of Taiwan without official government representation and without diplomatic relations. I am issuing this memorandum to facilitate maintaining those relations pending the enactment of legislation on the subject.

I therefore declare and direct that:

(A) Departments and agencies currently having authority to conduct or carry out programs, transactions, or other relations with or relating to Taiwan are directed to conduct and carry out those programs, transactions, and relations beginning January 1, 1979, in accordance with such authority and, as appropriate, through the instrumentality referred to in paragraph D below.

(B) Existing international agreements and arrangements in force between the United States and Taiwan shall continue in force and shall be performed and enforced by departments and agencies beginning January 1, 1979, in accordance with their terms and, as appropriate, through that instrumentality.

(C) In order to effectuate all of the provisions of this memorandum, whenever any law, regulation, or order of the United States refers to a foreign country, nation, state, government, or similar entity, departments and agencies shall construe those terms and apply those laws, regulations, or orders to include Taiwan.

(D) In conducting and carrying out programs, transactions, and other relations with the people on Taiwan, interests of the people of the United States will be represented as appropriate by an unofficial instrumentality in corporate form, to be identified shortly.

(E) The above directives shall apply to and be carried out by all departments and agencies, except as I may otherwise determine.

I shall submit to the Congress a request for legislation relative to non-governmental relationships between the American people and the people on Taiwan.

This memorandum shall be published in the FEDERAL REGISTER.

JIMMY CARTER

[Filed with the Office of the Federal Register, 4:26 p.m., January 2, 1979]

TEXT OF THE TAIWAN LEGISLATION ADOPTED BY THE CONGRESS, AND SIGNED INTO LAW BY PRESIDENT CARTER ON APRIL 10, 1979

TAIWAN RELATIONS ACT

[Public Law 96–8, Apr. 10, 1979, 93 Stat. 14]

An Act To help maintain peace, security, and stability in the Western Pacific and to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Taiwan Relations Act".

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The President having terminated governmental relations between the United States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, the Congress finds that the enactment of this Act is necessary—

(1) to help maintain peace, security, and stability in the Western Pacific; and

(2) to promote the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relations between the people of the United States and the people on Taiwan.

(b) It is the policy of the United States—

(1) to preserve and promote extensive, close, and friendly commercial, cultural, and other relations between the people of the United States and the people on Taiwan, as well as the people on the China mainland and all other peoples of the Western Pacific area;

(2) to declare that peace and stability in the area are in the political, security, and economic interests of the United States, and are matters of international concern;

(3) to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means;

(4) to consider any effort to determine the future of Taiwan by other than peaceful means, including by boycotts or embargoes, a threat to the peace and security of the Western Pacific area and of grave concern to the United States;

(5) to provide Taiwan with arms of a defensive character; and

(6) to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan.

(c) Nothing contained in this Act shall contravene the interest of the United States in human rights, especially with respect to the human rights of all the approximately eighteen million inhabitants of Taiwan. The preservation and enhancement of the human rights of all the people on Taiwan are hereby reaffirmed as objectives of the United States.

IMPLEMENTATION OF UNITED STATES POLICY WITH REGARD TO TAIWAN

SEC. 3. (a) In furtherance of the policy set forth in section 2 of this Act, the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability.

(b) The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law. Such determination of Taiwan's defense needs shall include review by United States military authorities in connection with recommendation to the President and the Congress.

(c) The President is directed to inform the Congress promptly of any threat

to the security or the social or economic system of the people on Taiwan and any danger to the interests of the United States arising therefrom. The President and the Congress shall determine, in accordance with constitutional processes, appropriate action by the United States to any such danger.

APPICATION OF LAWS; INTERNATIONAL AGREEMENTS

SEC. 4. (a) The absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan in the manner that the laws of the United States applied with respect to Taiwan prior to January 1, 1979.

(b) The application of subsection (a) of this section shall include, but shall not be limited to, the following:

(1) Whenever the laws of the United States refer or relate to foreign countries, nations, states, governments, or similar entities, such terms shall include and such laws shall apply with respect to Taiwan.

(2) Whenever authorized by or pursuant to the laws of the United States to conduct or carry out programs, transactions, or other relations with respect to foreign countries, nations, states, governments, or similar entities, the President or any agency of the United States Government is authorized to conduct and carry out, in accordance with section 6 of this Act, such programs transactions, and other relations with respect to Taiwan (including, but not limited to, the performance of services for the United States through contracts with commercial entities on Taiwan), in accordance with the applicable laws of the United States.

(3) (A) The absence of diplomatic relations and recognition with respect to Taiwan shall not abrogate, infringe, modify, deny, or otherwise affect in any way any rights or obligations (including but not limited to those involving contracts, debts, or property interests of any kind) under the laws of the United States heretofore or hereafter acquired by or with respect to Taiwan.

(B) For all purposes under the laws of the United States, including actions in any court in the United States, recognition of the People's Republic of China shall not affect in any way the ownership of or other rights or interests in properties, tangible and intangible, and other things of value, owned or held on or prior to December 31, 1978, or thereafter acquired or earned by the governing authorities on Taiwan.

(4) Whenever the application of the laws of the United States depends upon the law that is or was applicable on Taiwan or compliance therewith, the law applied by the people on Taiwan shall be considered the applicable law for that purpose.

(5) Nothing in this Act, nor the facts of the President's action in extending diplomatic recognition to the People's Republic of China, the absence of diplomatic relation between the people on Taiwan and the United States, or the lack of recognition by the United States, and attendant circumstances thereto, shall be construed in any administrative or judicial proceeding as a basis for any United States Government agency, commission, or department to make a finding of fact or determination of law, under the Atomic Energy Act of 1954 and the Nuclear Non-Proliferation Act of 1978, to deny an export license application or to revoke an existing export license for nuclear exports to Taiwan.

(6) For purposes of the Immigration and Nationality Act, Taiwan may be treated in the manner specified in the first sentence of section 202(b) of that Act.

(7) The capacity of Taiwan to sue and be sued in courts in the United States, in accordance with the laws of the United States, shall not be abrogated, infringed, modified, denied, or otherwise affected in any way by the absence of diplomatic relations or recognition.

(8) No requirement, whether expressed or implied, under the laws of the United States with respect to maintenance of diplomatic relations or recognition shall be applicable with respect to Taiwan.

(c) For all purposes, including actions in any court in the United States, the Congress approves the continuation in force of all treaties and other international agreements, including multilateral conventions, entered in to by the United

States and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and in force between them on December 31, 1978, unless and until terminated in accordance with law.

(d) Nothing in this Act may be construed as a basis for supporting the exclusion or expulsion of Taiwan from continued membership in any international financial institution or any other international organization.

OVERSEAS PRIVATE INVESTMENT CORPORATION

SEC. 5. (a) During the three-year period beginning on the date of enactment of this Act, the $1,000 per capita income restriction in clause (2) of the second undesignated paragraph of section 231 of the Foreign Assistance Act of 1961 shall not restrict the activities of the Overseas Private Investment Corporation in determining whether to provide any insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan.

(b) Except as provided in subsection (a) of this section, in issuing insurance, reinsurance, loans, or guaranties with respect to investment projects on Taiwan, the Overseas Private Insurance Corporation shall apply the same criteria as those applicable in other parts of the world.

THE AMERICAN INSTITUTE OF TAIWAN

SEC. 6. (a) Programs, transactions, and other relations conducted or carried out by the President or any agency of the United States Government with respect to Taiwan shall, in the manner and to the extent directed by the President, be conducted and carried out by or through—

(1) The American Institute in Taiwan, a nonprofit corporation incorporated under the laws of the District of Columbia, or (2) such comparable successor nongovernmental entity as the President may designate,

(hereafter in this Act referred to as "the Institute").

(b) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to enter into, perform, enforce, or have in force an agreement or transaction relative to Taiwan, such agreement or transaction shall be entered into, performed, and enforced, in the manner and to the extent directed by the President, by or through the Institute.

(c) To the extent that any law, rule, regulation, or ordinance of the District of Columbia, or any State or political subdivision thereof in which the Institute is incorporated or doing business, impedes or otherwise interferes with the performance of the functions of the Institute pursuant to this Act, such law, rule, regulations, or ordinance shall be deemed to be preempted by this Act.

SERVICES BY THE INSTITUTE TO UNITED STATES CITIZENS ON TAIWAN

SEC. 7. (a) The Institute may authorize any of its employees on Taiwan—

(1) to administer to or take from any person an oath, affirmation, affidavit, or deposition, and to perform any notarial act which any notary public is required or authorized by law to perform within the United States;

(2) To act as provisional conservator of the personal estates of deceased United States citizens; and

(3) to assist and protect the interests of United States persons by performing other acts such as are authorized to be performed outside the United States for consular purposes by such laws of the United States as the President may specify.

(b) Acts performed by authorized employees of the Institute under this section shall be valid, and of like force and effect within the United States, as if performed by any other person authorized under the laws of the United States to perform such acts.

TAX EXEMPT STATUS OF THE INSTITUTE

SEC. 8. (a) The Institute, its property, and its income are exempt from all taxation now or hereafter imposed by the United States (except to the extent that section 11(a)(3) of this Act requires the imposition of taxes imposed under chapter 21 of the Internal Revenue Code of 1954, relating to the Federal Insurance Contributions Act) or by any state or local taxing authority of the United States.

(b) For purposes of the Internal Revenue Code of 1954, the Institute shall be treated as an organization described in sections 170(b)(1)(A), 170(c), 2055(a), 2106(a)(2)(A), 2522(a), and 2522(b).

FURNISHING PROPERTY AND SERVICES TO AND OBTAINING SERVICES FROM THE INSTITUTE

SEC. 9. (a) Any agency of the United States Government is authorized to sell, loan, or lease property (including interests therein) to, and to perform administrative and technical support functions and services for the operations of, the Institute upon such terms and conditions as the President may direct. Reimbursements to agencies under this subsection shall be credited to the current applicable appropriation of the agency concerned.

(b) Any agency of the United States Government is authorized to acquire and accept services from the Institute upon such terms and conditions as the President may direct. Whenever the President determines it to be in furtherance of the purposes of this Act, the procurement of services by such agencies from the Institute may be effected without regard to such laws of the United States normally applicable to the acquisition of services by such agencies as the President may specify by Executive order.

(c) Any agency of the United States Government making funds available to the Institute in accordance with this Act shall make arrangements with the Institute for the Comptroller General of the United States to have access to the books and records of the Institute and the opportunity to audit the operations of the Institute.

TAIWAN INSTRUMENTALITY

SEC. 10. (a) Whenever the President or any agency of the United States Government is authorized or required by or pursuant to the laws of the United States to render or provide to or to receive or accept from Taiwan, any performance, communication, assurance, undertaking, or other action, such action shall, in the manner and to the extent directed by the President, be rendered or provided to, or received or accepted from, an instrumentality established by Taiwan which the President determines has the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with this Act.

(b) The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the governing authorities on Taiwan recognized as the Republic of China prior to January 1, 1979.

(c) Upon the granting by Taiwan of comparable privileges and immunities with respect to the Institute and its appropriate personnel, the President is authorized to extend with respect to the Taiwan instrumentality and its appropriate personnel, such privileges and immunities (subject to appropriate conditions and obligations) as may be necessary for the effective performance of their functions.

SEPARATION OF GOVERNMENT PERSONNEL FOR EMPLOYMENT WITH THE INSTITUTE

SEC. 11. (a)(1) Under such terms and conditions as the President may direct, any agency of the United States Government may separate from Government service for a specified period any officer or employee of that agency who accepts employment with the Institute.

(2) An officer or employee separated by an agency under paragraph (1) of this subsection for employment with the Institute shall be entitled upon termination of such employment to reemployment or reinstatement with such agency (or a successor agency) in an appropriate position with the attendant rights, privileges, and benefits with the officer or employee would have had or acquired had he or she not been so separated, subject to such time period and other conditions as the President may prescribe.

(3) An officer or employee entitled to reemployment or reinstatement rights under paragraph (2) of this subsection shall, while continuously employed by the Institute with no break in continuity of service, continue to participate in any benefit program in which such officer or employee was participating prior to employment by the Institute, including programs for compensation for job-related death, injury, or illness; programs for health and life insurance; pro-

grams for annual, sick, and other statutory leave; and programs for retirement under any system established by the laws of the United States; except that employment with the Institute shall be the basis for participation in such programs only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the program's or system's fund or depository. Death or retirement of any such officer or employee during approved service with the Institute and prior to reemployment or reinstatement shall be considered a death in or retirement from Government service for purposes of any employee or survivor benefits acquired by reason of service with an agency of the United States Government.

(4) Any officer or employee of an agency of the United States Government who entered into service with the Institute on approved leave of absence without pay prior to the enactment of this Act shall receive the benefits of this section for the period of such service.

(b) Any agency of the United States Government employing alien personnel on Taiwan may transfer such personnel, with accrued allowances, benefits, and rights, to the Institute without a break in service for purposes of retirement and other benefits, including continued participation in any system established by the laws of the United States for the retirement of employees in which the alien was participating prior to the transfer to the Institute, except that employment with the Institute shall be creditable for retirement purposes only to the extent that employee deductions and employer contributions, as required, in payment for such participation for the period of employment with the Institute, are currently deposited in the system's fund or depository.

(c) Employees of the Institute shall not be employees of the United States and, in representing the Institute, shall be exempt from section 207 of title 18, United States Code.

(d)(1) For purposes of sections 911 and 913 of the Internal Revenue Code of 1954, amounts paid by the Institute to its employees shall not be treated as earned income. Amounts received by employees of the Institute shall not be included in gross income, and shall be exempt from taxation, to the extent that they are equivalent to amounts received by civilian officers and employees of the Government of the United States as allowances and benefits which are exempt from taxation under section 912 of such Code.

(2) Except to the extent required by subsection (a)(3) of this section, service performed in the employ of the Institute shall not constitute employment for purposes of chapter 21 of such Code and title II of the Social Security Act.

REPORTING REQUIREMENT

SEC. 12. (a) The Secretary of State shall transmit to the Congress the text of any agreement to which the Institute is a party. However, any such agreement the immediate public disclosure of which would, in the opinion of the President, be prejudicial to the national security of the United States shall not be so transmitted to the Congress but shall be transmitted to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate injunction of secrecy to be removed only upon due notice from the President.

(b) For purposes of subsection (a), the term "agreement" includes—

(1) any agreement entered into between the Institute and the governing authorities on Taiwan or the instrumentality established by Taiwan; and

(2) any agreement entered into between the Institute and an agency of the United States Government.

(c) Agreements and transactions made or to be made by or through the Institute shall be subject to the same congressional notification, review, and approval requirements and procedures as if such agreements and transactions were made by or through the agency of the United States Government on behalf of which the Institute is acting.

(d) During the two-year period beginning on the effective date of this Act, the Secretary of State shall transmit to the Speaker of the House of Representatives and the Committee on Foreign Relations of the Senate, every six months, a report describing and reviewing economic relations between the United States and Taiwan, noting any interference with normal commercial relations.

RULES AND REGULATIONS

SEC. 13. The President is authorized to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of this Act. During the three-year period beginning on the effective date of this Act, such rules and regulations shall be transmitted promptly to the Speaker of the House of Representatives and to the Committee on Foreign Relations of the Senate. Such action shall not, however, relieve the Institute of the responsibilities placed upon it by this Act.

CONGRESSIONAL OVERSIGHT

SEC. 14. (a) The Committee on Foreign Affairs of the House of Representatives, the Committee on Foreign Relations of the Senate, and other appropriate committees of the Congress shall monitor—

(1) the implementation of the provisions of this Act;

(2) the operation and procedures of the Institute;

(3) the legal and technical aspects of the continuing relationship between the United States and Taiwan; and

(4) the implementation of the policies of the United States concerning security and cooperation in East Asia.

(b) Such committees shall report, as appropriate, to their respective Houses on the results of their monitoring.

DEFINITIONS

SEC. 15. For purposes of this Act—

(1) the term "laws of the United States" includes any statute, rule, regulation, ordinance, order, or judicial rule of decision of the United States or any political subdivision thereof; and

(2) the term "Taiwan" includes, as the context may require, the islands of Taiwan and the Pescadores, the people on those islands, corporations and other entities and associations created or organized under the laws applied on those islands, and the governing authorities on Taiwan recognized by the United States as the Republic of China prior to January 1, 1979, and any successor governing authorities (including political subdivisions, agencies, and instrumentalities thereof).

AUTHORIZATION OF APPROPRIATIONS

SEC. 16. In addition to funds otherwise available to carry out the provisions of this Act, there are authorized to be appropriated to the Secretary of State for the fiscal year 1980 such funds as may be necessary to carry out such provisions. Such funds are authorized to remain available until expended.

SEVERABILITY OF PROVISIONS

SEC. 17. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of such provision to any other person or circumstance shall not be affected thereby.

EFFECTIVE DATE

SEC. 18. This Act shall be effective as of January 1, 1979.

Approved April 10, 1979.

○

Executive Order 12143—Maintaining unofficial relations with the people on Taiwan

SOURCE: The provisions of Executive Order 12143 of June 22, 1979, appear at 44 FR 37191, 3 CFR, 1979 Comp., p. 402, unless otherwise noted.

In light of the recognition of the People's Republic of China by the United States of America as the sole legal government of China, and by the authority vested in me as President of the United States of America, by the Taiwan Relations Act (Public Law 96–8, 93 Stat. 14, 22 U.S.C. 3301 *et seq.*, hereinafter referred to as "the Act"), and Section 301 of Title 3 of the United States Code, in order to facilitate the maintenance of commercial, cultural and other relations between the people of the United States and the people on Taiwan without official representation or diplomatic relations, it is hereby ordered as follows:

1–1. *Delegation and Reservation of Functions.*

1–101. Exclusive of the functions otherwise delegated, or reserved to the President, by this Order, there are delegated to the Secretary of State all functions conferred upon the President by the Act. In carrying out these functions, the Secretary of State shall consult with other departments and agencies as appropriate.

1–102. There are delegated to the Director of the Office of Personnel Management the functions conferred upon the President by paragraphs (1) and (2) of Section 11(a) of the Act. These functions shall be exercised in consultation with the Secretary of State.

1–103. There are reserved to the President the functions conferred upon the President by Section 3, Section 7(a)(3), and the second sentence of Section 9(b), and the determination specified in Section 10(a) of the Act.

1–2. *Specification of Laws and Determinations.*

1–201. Pursuant to Section 7(a) of the Act, I specify the following provisions of law:

(a) Section 4082 of the Revised Statutes (22 U.S.C. 1172);

(b) Section 1707 of the Revised Statutes (22 U.S.C. 1173);

(c) Section 1708 of the Revised Statutes (22 U.S.C. 1174);

(d) Section 1709 of the Revised Statutes, as amended (22 U.S.C. 1175);

(e) Section 1710 of the Revised Statutes, as amended (22 U.S.C. 1176);

(f) Section 1711 of the Revised Statutes, as amended (22 U.S.C. 1177);

(g) Section 1718 of the Revised Statutes (22 U.S.C. 1185); and

(h) Section 7 of the Act of April 5, 1906 (22 U.S.C. 1195).

1–202. Pursuant to Section 9(b) of the Act, and in furtherance of the purposes of the Act, the procurement of services may be effected without regard to the following provisions of law and limitations of authority:

(a) Section 3648 of the Revised Statutes, as amended (31 U.S.C. 529);

(b) Section 9 of the Act of June 30, 1906 (31 U.S.C. 627), and Section 3679 and 3732 of the Revised Statutes (31 U.S.C. 665; 41 U.S.C. 11), to the extent necessary to permit the indemnification of contractors against unusually hazardous risks, as defined in Institute contracts, consistent, to the extent practicable, with regulations prescribed by the Department of Defense pursuant to the provisions of the Act of August 28, 1958 (50 U.S.C. 1431 *et seq.*), and Executive Order No. 10789 of November 14, 1958, as amended;

(c) Section 3709 of the Revised Statutes and Section 302 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 5, 252);

(d) Section 3710 of the Revised Statutes (41 U.S.C. 8);

(e) Section 2 of Title III of the Act of March 3, 1933 (41 U.S.C. 10a);

(f) Section 3735 of the Revised Statutes (41 U.S.C. 13);

(g) Section 304(b) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(b)), so as to permit the payment of fees in excess of the prescribed fee limitations, but nothing herein shall be construed as authorizing the use of the cost-plus-a-percentage-of-cost system of contracting;

(h) Section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255);

(i) Sections 2 through 16 of the Contract Disputes Act of 1978 (41 U.S.C. 601-613);

(j) Sections 2304, 2305 and 2306(a) through (f) of Title 10 of the United States Code, but nothing herein shall be construed as authorizing the use of the cost-plus-a-percentage-of-cost system of contracting; and

(k) Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168).

1-203. (a) With respect to cost-type contracts with the American Institute in Taiwan under which no fee is charged or paid, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof.

(b) With respect to contracts heretofore or hereafter made under the Act, other than those described in subsection (a) of this Section, amendments and modifications of such contracts may be made with or without consideration and may be utilized to accomplish the same things as any original contract could have accomplished, irrespective of the time or circumstances of the making, or the form of the contract amended or modified, or of the amending or modifying contract, and irrespective of rights which may have accrued under the contract or the amendments or modifications thereof, if the Secretary of State determines in each case that such action is necessary to protect the foreign policy interests of the United States.

1-204. Pursuant to Section 10(a) of the Act, the Coordination Council for North American Affairs is determined to be the unofficial instrumentality established by the people on Taiwan having the necessary authority under the laws applied by the people on Taiwan to provide assurances and take other actions on behalf of Taiwan in accordance with the Act.

1-3. *President's Memorandum of December 30, 1978.*

1-301. This Order supersedes my memorandum of December 30, 1978 for all departments and agencies entitled "Relations With the People on Taiwan" (44 FR 1075). Agreements and arrangements referred to in paragraph (B) of that memorandum shall continue in force and shall be performed in accordance with the Act and this Order.

THE WHITE HOUSE
WASHINGTON

April 5, 1982

Dear Mr. Premier:

The present state of relations between our two countries deeply concerns me. We believe significant deterioration in those relations would serve the interests of neither the United States of America nor the People's Republic of China.

As the late Premier Zhou Enlai said in welcoming President Nixon to China in 1972, "the Chinese people are a great people, and the American people are a great people." We are two strong, sovereign nations sharing many common interests. We both want to build a structure for long-term friendship. We both face a common threat of expanding Soviet power and hegemonism. History has placed upon us a joint responsibility to deal with this danger.

The differences between us are rooted in the long-standing friendship between the American people and the Chinese people who live on Taiwan. We will welcome and support any peaceful resolution of the Taiwan question. In this connection, we appreciate the policies which your government has followed to provide a peaceful settlement. As I told Vice Premier Huang in Washington, we welcome your nine-point initiative.

As I also told the Vice Premier, we expect that in the context of progress toward a peaceful solution, there would naturally be a decrease in the need for arms by Taiwan. Our positions over the past two months have reflected this view. We are prepared, indeed welcome, further exchanges of view in the months to come.

I hope you share my conviction that the United States and China should work together to strengthen the prospects for a more peaceful international order. While our interests, and thus our policies, will not always be identical, they are complementary and thus should form a firm basis for cooperation.

In my letter to Vice Chairman Deng, I have suggested that a visit to Beijing by Vice President Bush at the end of April could be a useful step in deepening the understanding between our two countries. The Vice President will be travelling in Asia at that time, and could visit Beijing if you feel it would be useful.

Sincerely,

Ronald Reagan

His Excellency
Zhao Ziyang
Premier of the State Council of the
People's Republic of China
Beijing

THE WHITE HOUSE
WASHINGTON

April 5, 1982

Dear Mr. Vice Chairman:

The establishment of diplomatic relations between the United States and China was an historic event which improved the prospects for peace and served the interests of both our peoples. Yet we now find ourselves at a difficult juncture in those relations.

I am writing to you because it is important for the leadership of both our countries to resume the broad advance to which you have contributed so much. This is particularly important today, as we face a growing threat from the Soviet Union and its satellite nations throughout the world. Though our interests and thus our policies are not identical, in Afghanistan and Iran, in Southeast Asia, in my own hemisphere, and in the field of nuclear weaponry, your nation and mine face clear and present dangers, and these should impel us toward finding a firm basis for cooperation.

We have come far together in a very short time. I strongly support the continuation of this progress. We must work together to expand the benefits to both our countries. My Administration has taken a number of initiatives to further this process, and we intend to do more.

Clearly, the Taiwan issue has been a most difficult problem between our governments. Nonetheless, vision and statesmanship have enabled us in the past to reduce our differences over this issue while we have built a framework of long-term friendship and cooperation.

The United States firmly adheres to the positions agreed upon in the Joint Communique on the Establishment of Diplomatic Relations between the United States and China. There is only one China. We will not permit the unofficial relations between the American people and the people of Taiwan to weaken our commitment to this principle.

I fully understand and respect the position of your government with regard to the question of arms sales to Taiwan. As you know, our position on this matter was stated in the process of normalization: The United States has an abiding interest in the peaceful resolution of the Taiwan question.

We fully recognize the significance of the nine-point proposal of September 30, 1981 and the policy set forth by your government as early as January 1, 1979. The decisions and the principles conveyed on my instructions to your government on January 11, 1982 reflect our appreciation of the new situation created by these developments.

In this spirit, we wish to continue our efforts to resolve our differences and to create a cooperative and enduring bilateral and strategic relationship. China and America are two great nations destined to grow stronger through cooperation, not weaker through division.

In the spirit of deepening the understanding between our two countries, I would like to call your attention to the fact that Vice President Bush will be travelling to East Asia toward the end of April. The Vice President knows and admires you. He is also fully aware of my thinking about the importance of developing stronger relations between our two countries. If it would be helpful, I would be delighted to have the Vice President pay a visit to Beijing, as part of his Asian trip, so that these matters can be discussed directly and personally with you and other key leaders of the People's Republic of China.

Sincerely,

Ronald Reagan

His Excellency
Deng Xiaoping
Vice Chairman of the Central Committee
of the Communist Party of the
People's Republic of China
Beijing

THE WHITE HOUSE
WASHINGTON

May 3, 1982

Dear Mr. Chairman:

The visit of Vice President Bush to China affords a welcome opportunity to convey my regards to you.

As sovereign nations, our two countries share a common responsibility to promote world peace. We face a grave challenge from the Soviet Union which directly threatens our peoples and complicates the resolution of problems throughout the globe. It is vital that our relations advance and our cooperation be strengthened.

Vice President Bush is visiting China as my personal emissary. He is prepared to discuss a wide range of issues of mutual concern. My sincere hope is that we can achieve, through his discussions, enhanced mutual understanding, at the highest levels of our governments.

Among the issues the Vice President will address is the question of United States arms sales to Taiwan. This remains an area of residual disagreement, as our governments acknowledged at the time of US-China normalization. I believe, so long as we exercise the statesmanship and vision which have characterized our approach to differences over the past decade, we will be able to make progress toward the removal of this issue as a point of bilateral contention.

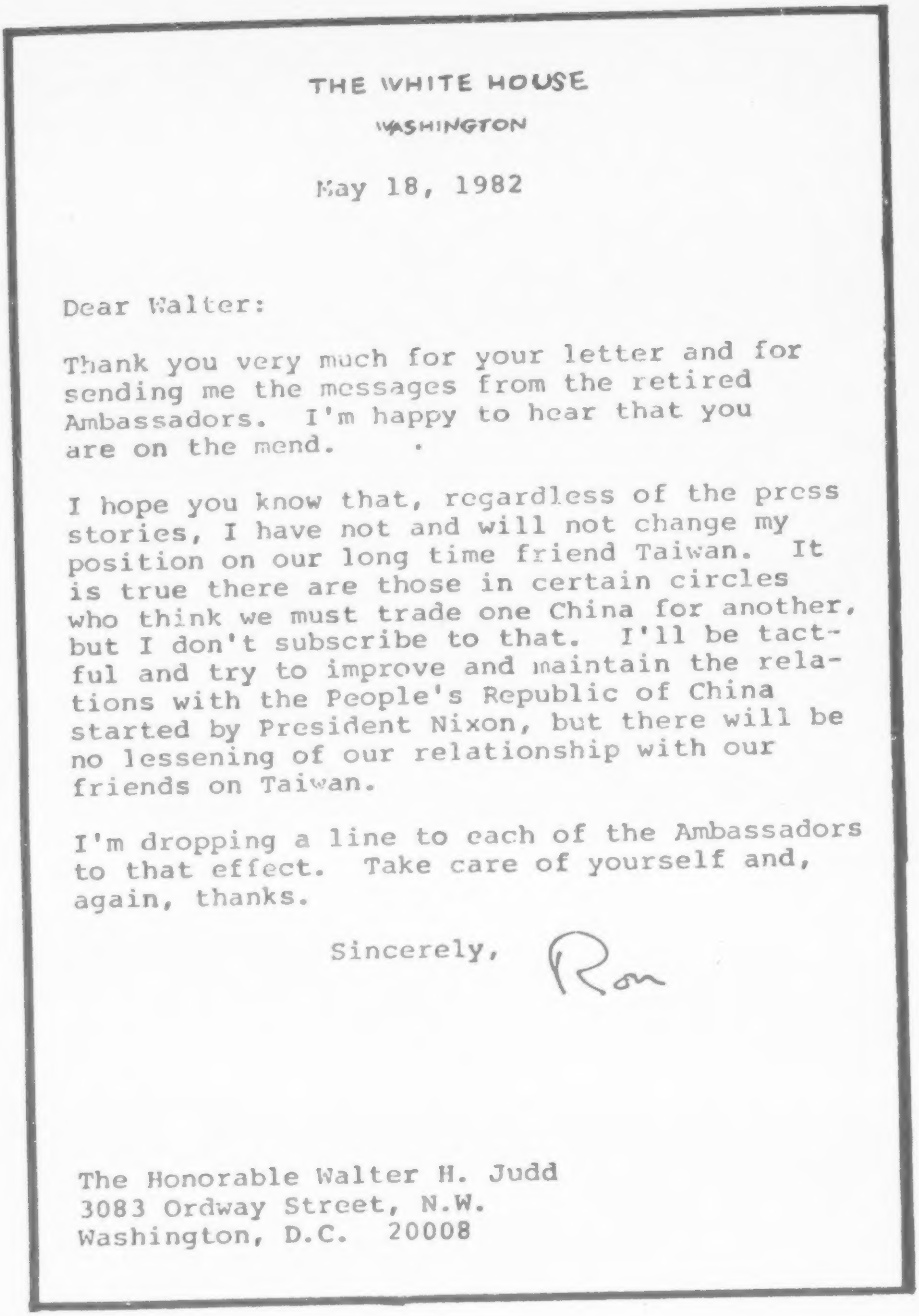
In the meantime, as stated in my recent letters to Vice Chairman Deng and Premier Zhao, the United States will continue to adhere firmly to the positions agreed upon in the Joint Communique on the Establishment of Diplomatic Relations between the United States and the People's Republic of China. Our policy will continue to be based on the principle that there is but one China. We will not permit the unofficial relations between the American people and the Chinese people on Taiwan to weaken our commitment to this principle.

On this basis, and with good faith on both sides, we are confident that a means can be found to resolve current differences and deepen our bilateral and strategic coöperation. It is my hope that you and I will have an opportunity to meet soon. Please accept my best wishes in your efforts to build a secure and modernizing China.

Sincerely,

Ronald Reagan

His Excellency
Hu Yaobang
Chairman of the Chinese
Communist Party
Beijing



THE WHITE HOUSE
WASHINGTON

May 18, 1982

Dear Walter:

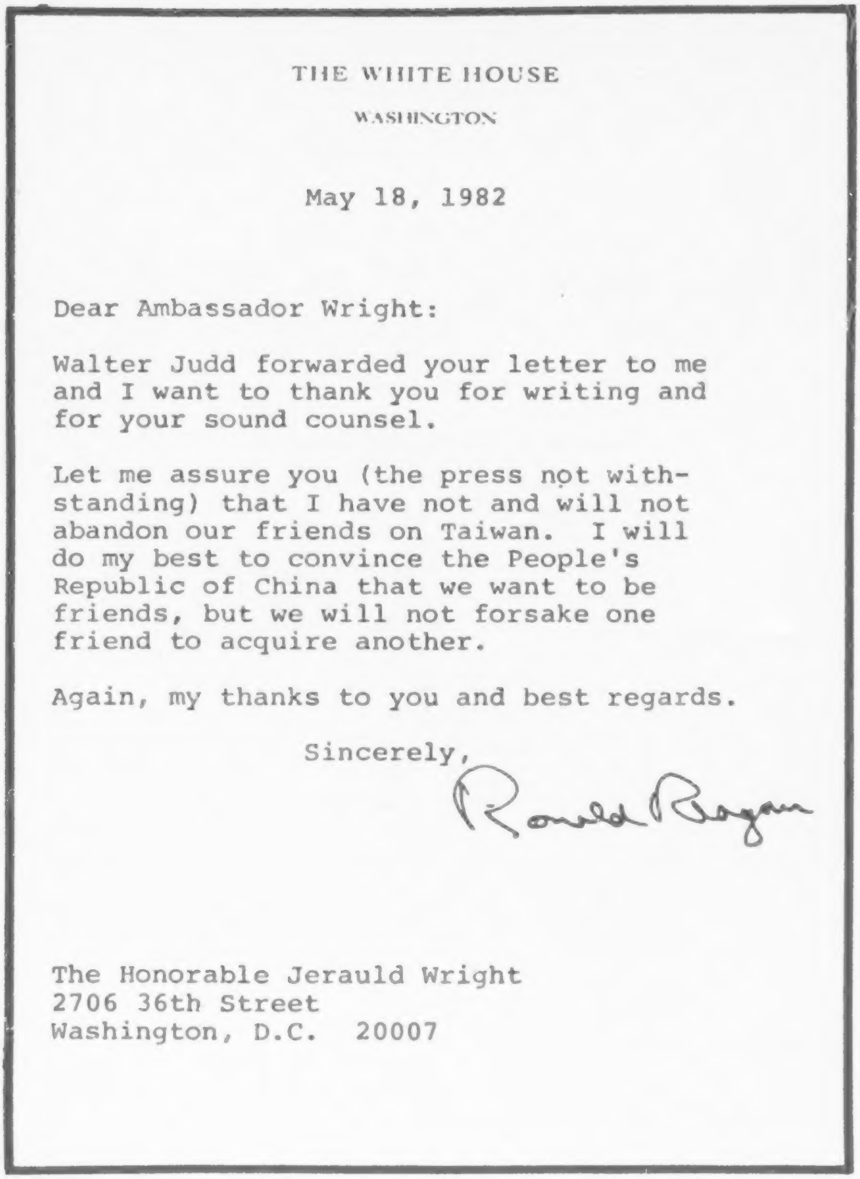
Thank you very much for your letter and for sending me the messages from the retired Ambassadors. I'm happy to hear that you are on the mend.

I hope you know that, regardless of the press stories, I have not and will not change my position on our long time friend Taiwan. It is true there are those in certain circles who think we must trade one China for another, but I don't subscribe to that. I'll be tactful and try to improve and maintain the relations with the People's Republic of China started by President Nixon, but there will be no lessening of our relationship with our friends on Taiwan.

I'm dropping a line to each of the Ambassadors to that effect. Take care of yourself and, again, thanks.

Sincerely, Ron

The Honorable Walter H. Judd
3083 Ordway Street, N.W.
Washington, D.C. 20008



THE WHITE HOUSE
WASHINGTON

May 18, 1982

Dear Ambassador Wright:

Walter Judd forwarded your letter to me and I want to thank you for writing and for your sound counsel.

Let me assure you (the press not withstanding) that I have not and will not abandon our friends on Taiwan. I will do my best to convince the People's Republic of China that we want to be friends, but we will not forsake one friend to acquire another.

Again, my thanks to you and best regards.

Sincerely,

Ronald Reagan

The Honorable Jerauld Wright
2706 36th Street
Washington, D.C. 20007

Remarks from
President Reagan's
Press Conference

July 28 / Administration of Ronald Reagan, 1982

Policy Toward China and Taiwan

Q. Mr. President, what role do you envision for mainland China in American strategic planning in East Asia and along the Soviet border, and what are your plans for arms sales to Taiwan?

The President. We want to continue developing the relationship that was started some years ago by President Nixon with the People's Republic of China. But at the same time, they know very well our position, and it has not changed. We are not going to abandon our long-time friends and allies on Taiwan. And I'm going to carry out the terms of the Taiwan Relations Act. And this has been made clear. And we have no secret agreements of any other kind or anything that should cause the government or the people of Taiwan to have any concern about that. It is a moral obligation that we'll keep.

Current
Policy No. 413

U.S.-China Joint Communique

August 1982

United States Department of State
Bureau of Public Affairs
Washington, D.C.

Following is a statement by John H. Holdridge, Assistant Secretary for East Asian and Pacific Affairs, before the House Foreign Affairs Committee on August 18, 1982. Also included are the texts of the U.S.-China joint communique and President Reagan's statement of August 17.

Yesterday the United States and the People's Republic of China simultaneously issued a joint communique. During the past months, the Administration has benefited from consultations with members of this committee on this sensitive subject. I am glad to be able to continue our discussion of these issues in a public forum. I would also like to express our appreciation for the way the committee has cooperated with us in maintaining the confidentiality of our discussions with the Chinese; this has been vital, and we appreciate it.

As we went into these negotiations we had two things in mind—our historic obligations to the people of Taiwan and our important and growing relations with the People's Republic of China. Throughout the entire period of our discussions with Beijing we were guided by these dual considerations. It is a fundamental national interest of the United States to preserve and advance its strategic relations with China. At the same time, we have obligations to old friends; and we are not going to turn our back on them.

I am glad that we have been able to arrive at a communique with the Chinese that demonstrated their recognition of our determination on this score. Despite the difficulties it obviously causes them, they were willing to join with us in a *modus vivendi* which will enable us to continue our relationship because of the important interests involved for them. Such an outcome is of vital importance to our national interest. Three administrations before us have worked very hard to establish and expand this relationship, and we would have been derelict if we had not made every effort to find a way around the problem that threatened it.

A Valued Relationship

I think it would be useful to take a few minutes to examine the reasons why we value this relationship so highly. One of the major reasons is strategic. Prior to 1971 we had a hostile relationship with China. It was costly. We fought the Chinese in Korea. We almost came to a major war over Quemoy and Matsu. The Chinese worked hand in hand with the Soviets against us in Vietnam. We had to maintain a naval presence between Taiwan and the mainland. China identified itself with support for guerrilla movements on the soil of many of our allies and friends. Furthermore, a large part of our defense resources were allocated on the premise of a hostile China. Last, and perhaps most important, these 1 billion people were not identified with our interests as we faced the Soviet Union.

Starting in 1971 we have changed this situation. Thanks to a productive relationship between the United States and China Taiwan has never been more secure and prosperous. We no longer

U.S.-CHINA JOINT COMMUNIQUE, AUGUST 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October, 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972 and reaffirmed in the Joint Communique on the Establishment of Diplomatic Relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese Government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point Proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

5. The United States Government attaches great importance to its relations with China, and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The United States Government understands and appreciates the Chinese policy of striving for a peaceful resolution of the Taiwan question as indicated in China's Message to Compatriots in Taiwan issued on January 1, 1979 and the Nine-Point proprosal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over the question of United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational, scientific, technological and other fields and make strong, joint efforts for the continued development of relations between the governments and peoples of the United States and China.

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the Joint Communique on the Establishment of Diplomatic Relations. The two sides will maintain contact and hold appropriate consultations on bilateral and international issues of common interest.

---

have to plan for China as an enemy. We can now think about China as a country with which we might cooperate in certain significant areas. China's relations with our allies in Asia have improved. These 1 billion people are cautiously moving into the mainstream of the world's cultural and economic life. Their isolation is dissolving. Trade has increased. Eight thousand Chinese students are now studying in the United States. Investment opportunities are opening and our parallel interests in containing the Soviet Union have been repeatedly reaffirmed.

All of these things represent solid, vital benefits to our security and well-being. We were not going to let these achievements disappear into rancor and hostility if we could possibly avoid it. We went after both of the objectives I mentioned at the outset, and I believe we have succeeded.

Reaffirming Fundamental Principles

Let me now turn to yesterday's communique. The communique reaffirms the fundamental principles which have guided U.S.-China relations since the inception of the normalization process over 10 years ago. This reaffirmation is significant; it illustrates the strength and the durability of these principles.

On this foundation, the United States established relations with China which have been economically beneficial to us and which have greatly enhanced our vital strategic interests. At the same time, we have maintained and strengthened our commercial and cultural relations with the people of Taiwan. We have achieved these important goals without impairing the security of the people of Taiwan, and, indeed, because of these improved relations between China and the United States, Taiwan has never been more secure.

The communique also addresses an issue which was not resolved at the time of normalization of relations—the question of U.S. arms sales to Taiwan. During discussions leading to normalization, China demanded that arms sales be terminated. We refused. I can say here that our negotiations almost foundered over this issue. China ultimately agreed to proceed with normalization despite this disagreement but reserved the right to raise this issue again. When it did so, we agreed to engage in discussion to determine whether an understanding could be reached. The alternative to our agreeing to hold such discussions would clearly have been the beginning of a process of deterioration in our relations—deterioration that could have led us back toward hostility since the issue itself was volatile and basic. We would have been irresponsible had we allowed such a process to start.

We undertook these discussions, therefore, with the hope that a formula could be found which would permit the continued growth of our relations with China, but also with the firm resolve that there were principles regarding the security of Taiwan which could not be compromised. Those principles, embodied in the Taiwan Relations Act, commit the United States to sell to Taiwan arms necessary to maintain a sufficient self-defense capability.

Aware of our consistent and firm opposition to the use of force against Taiwan, the Chinese during these discussions agreed to state in very strong terms their policy of pursuing a peaceful resolution of the Taiwan issue and described this policy as "fundamental." The Chinese insisted, however, that we agree to the ultimate termination of arms sales. We refused because the level of our arms sales must be determined by the needs of Taiwan and we could not agree to a termination date, as the Chinese demanded, which might impair our ability to meet those needs.

At the same time, we recognized that China's peaceful policy bore directly on the defense needs of Taiwan. So long as that policy continued, the threat to Taiwan would be greatly diminished. As I have just noted, assurances of such a continuity were provided when the Chinese began to describe their peaceful policy on the resolution of the Taiwan question as, as I have just said, "fundamental," which contains the connotation of unchanging and long term. We were thus able to consider a policy under which we would limit our arms sales to the levels reached in recent years and would anticipate a gradual reduction of the level of arms sales. We were not willing, however, to adopt such a course unconditionally.

While the Chinese were willing to state their peaceful policy in strong terms, they at first resisted any relationship between that policy and our arms sales to Taiwan. The Chinese resisted this relationship because of their view that the sale of arms to Taiwan constitutes an interference in China's internal affairs. We rejected any language to this effect in the communique.

We also stressed that as a matter of fact and law, any adjustments in our arms sales to Taiwan had to be premised on a continuation of China's peaceful policy. We therefore maintained, and the Chinese ultimately agreed, that the statement of our policy in paragraph 6 be prefaced by a phrase that related it to the continuation of China's peaceful approach. This is the genesis and purpose of the phrase "Having in mind the foregoing statements of both sides" which precedes our statements in that paragraph. Thus, our policy is predicated on China's commitment in paragraph 4 to a peaceful approach and our acknowledgment of that approach in paragraph 5.

PRESIDENTIAL STATEMENT ON ISSUANCE OF COMMUNIQUE, AUGUST 17, 1982

The U.S.-China Joint Communique issued today embodies a mutually satisfactory means of dealing with the historical question of U.S. arms sales to Taiwan. This document preserves principles on both sides and will promote the further development of friendly relations between the governments and peoples of the United States and China. It will also contribute to the further reduction of tensions and to lasting peace in the Asia/Pacific region.

Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan.

In working toward this successful outcome we have paid particular attention to the needs and interests of the people of Taiwan. My longstanding personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan—cultural, commercial, and people-to-people contacts—which are compatible with our unofficial relationship. Such contacts will continue to grow and prosper and will be conducted with the dignity and honor befitting old friends.

Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. Arms sales will continue in accordance with the act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful. We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. The position of the U.S. Government has always been clear and consistent in this regard. The Taiwan question is a matter for the Chinese people, on both sides of the Taiwan Strait, to resolve. We will not interfere in this matter or prejudice the free choice of, or put pressure on, the people of Taiwan in this matter. At the same time, we have an abiding interest and concern that any resolution be peaceful. I shall never waver from this fundamental position.

I am proud, as an American, at the great progress that has been made by the people on Taiwan, over the past three decades, and of the American contribution to that process. I have full faith in the continuation of that process. My Administration, acting through appropriate channels, will continue strongly to foster that development and to contribute to a strong and healthy investment climate, thereby enhancing the well-being of the people of Taiwan.

Let me summarize the essence of our understanding on this point: China has announced a fundamental policy of pursuing peaceful means to resolve the longstanding dispute between Taiwan and the mainland. Having in mind this policy and the consequent reduction in the military threat to Taiwan, we have stated our intention to reduce arms sales to Taiwan gradually, and said that in quantity and quality we would not go beyond levels established since normalization. This follows from a literal reading of the communique. While we have no reason to believe that China's policy will change, an inescapable corollary to these mutually interdependent policies is that should that happen, we will reassess ours. Our guiding principle is now and will continue to be that embodied in the Taiwan Relations Act: the maintenance of a self-defense capability sufficient to meet the military needs of Taiwan, but with the understanding that China's maintenance of a peaceful approach to the Taiwan question will permit gradual reductions in arms sales.

Questions have been raised concerning whether the wording of the communique adequately conveys the meaning which we ascribe to it. I believe that it does or I would have recommended against its approval. The present wording evolved from 10 months of intense negotiations in which fundamental principles were at stake on both sides. The language necessarily reflects the difficult compromises which were reached.

We should keep in mind that what we have here is not a treaty or agreement but a statement of future U.S. policy. We intend to implement this policy in accordance with our understanding of it. I hope I have made that point abundantly clear in my remarks today. I can further assure you that, having participated closely in the negotiations, I am confident that the Chinese are fully cognizant of that understanding.

Returning now to the document itself, let me recapitulate and emphasize a few key features.

First, the document must be read as a whole, since the policies it sets forth are interrelated.

Second, as I have previously noted, the communique contains a strong Chinese statement that its fundamental policy is to seek to resolve the Taiwan question by peaceful means (paragraph 4). In this context, I would point out again that the reference to their "fundamental" policy carries the connotation in Chinese of "unchanging and long term."

Third, the U.S. statements concerning future arms sales to Taiwan (paragraph 6) are based on China's statements as to its fundamental peaceful policy for seeking a resolution to the Taiwan question and on the "new situation" created by those statements (paragraph 5). This situation is new because, for the first time, China has described its peaceful policy toward Taiwan in the terms I have outlined. Thus, our future actions concerning arms sales to Taiwan are premised on a continuation of China's peaceful policy toward a resolution of its differences with Taiwan. This is indicated by the words at the beginning of paragraph 6 that "Having in mind the foregoing statements of both sides, the United States Government states. . . ." We have no reason to think that the Chinese will change this fundamental policy, but if they should, we would, of course, reexamine our position.

Fourth, we did not agree to set a date certain for ending arms sales to Taiwan and the statements of future U.S. arms sales policy embodied in the communique do not provide either a time frame for reductions of U.S. arms sales or for their termination. The U.S. statements are fully consistent with the Taiwan Relations Act, and we will continue to make appropriate arms sales to Taiwan based on our assessments of their defense needs, as specified by the act.

Substance of Discussions

So much for what is in the actual communique. Over the past several months, there has been considerable speculation about the substance of our discussions with the Chinese. As you know, we have not felt free to comment on such speculation while our talks were underway. Therefore, it might be useful at this point to clarify our stand on a number of issues which have surfaced in such speculations.

As to our position on the resolution of the Taiwan problem, we have consistently held that it is a matter to be worked out by the Chinese themselves. Our sole and abiding concern is that any resolution be peaceful. It follows that we see no mediation role for the United States nor will we attempt to exert pressure on Taiwan to enter into negotiations with the People's Republic of China (P.R.C.).

I would also call your attention to the fact that there has been no change in our longstanding position on the issue of sovereignty over Taiwan. The communique (paragraph 1) in its opening paragraph simply cites that portion of the joint communique on the establishment of diplomatic relations between the United States and the P.R.C. in which the United States "acknowledged the Chinese position" on this issue (i.e., that there is but one China and Taiwan is a part of China).

It has been reported in the press that the Chinese at one point suggested that the Taiwan Relations Act be revised. We have no plans to seek any such revisions.

Finally, in paragraph 9 the two sides agree to "maintain contact and hold appropriate consultations on bilateral and international issues of common interest." This should be read within the context of paragraphs 8 and 9, which deal with the two sides' desire to advance their bilateral and strategic relations. It should not be read to imply that we have agreed to engage in prior consultations with Beijing on arms sales to Taiwan.

We hope and expect that this communique, and the step forward which it represents in the resolution of U.S.-Chinese differences on this issue, will enhance the confidence of the people of Taiwan, whose well-being and prosperity continue to be of the utmost importance to us. From the President on down, we have acted in a way which seeks to enhance the future security and prosperity of the people of Taiwan, and I call your attention to the emphasis on this matter in the President's statement which was released simultaneously with the release of the communique yesterday.

Removal of the arms question as a serious issue in U.S.-China relations will help to insure that both countries can continue to cooperate on mutually shared international objectives, e.g., deterring Soviet aggression in East Asia and removal of Vietnamese troops from Kampuchea. It will ease fears by American friends and allies that the general peace and stability in the Asia/Pacific region could be undermined. By defusing the difficult issue of arms sales, we will open the way for an expansion of U.S.-China relations in a broad range of economic, cultural, scientific, and technological areas as well as in people-to-people contact.

In conclusion, I would like to quote a paragraph from the statement issued by President Reagan yesterday:

> Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced. This communique will make that possible, consistent with our obligations to the people of Taiwan. ■

U.S. GOVERNMENT PRINTING OFFICE: 1982 - 361-413 - 400/436

Bureau of Public Affairs
United States Department of State
Washington, D.C. 20520

Official Business

If address is incorrect
please indicate change.
Do not cover or destroy
this address label.

Postage and Fees Paid
Department of State
STA-501

Third Class Bulk Rate

U.S. MAIL

Remarks from President Reagan's Speech to GOP Candidates

Oct. 6 / Administration of Ronald Reagan, 1982

[From Presidential Documents, October 11, 1982, Vol.18, No. 40]

The President. Look, in spite of the tax increase that we had to accept, we still have the largest tax cut in history—$335 billion over the next 3 years, at the same time of the tax increase that was put into effect.

Now, you've touched a nerve with the crack on Taiwan, and I know where you get that kind of stuff. There has been no reversal on our Taiwan policy. And our Taiwan friends are going to continue to get everything they need for their own self-defense at the same time that we're going to sincerely and honestly do our best to improve the relations with the People's Republic of China on the mainland. But they know, and, as a matter of fact, they know that they made concessions, because we told them the law of this land is the Taiwan Relations Act, and we're going to carry out that law.

And if the People's Republic keeps their word that they, for the first time, said that they would try to resolve their differences peacefully and arrive at a peaceful reunification, yes, then there would be no longer any need for us to provide defense weapons, and there would be a decline and an end at that time, but only linked to that promise of a peaceful reunification. Without that, and until that, we are going to continue to meet our responsibilities to our friends and allies on Taiwan. That has been badly distorted I regret to say, in even a publication that professes to be on our side. But that is the truth of the matter about Taiwan. [*Applause*] Thank you. [*Applause*] Thank you. [*Applause*] Thank you very much.

DEPARTMENT OF STATE
Washington, D.C. 20520

1982 SEP 14 PM 2:44

SEPTEMBER 13 1982

Dear Senator East:

This letter responds on behalf of the Executive Branch to your letters of August 20 and August 24 to the Departments of State and Defense, the NSC and the Arms Control and Disarmament Agency and of September 9 to the Department of Justice in which you raised certain questions concerning the Joint Communique issued by the United States and the People's Republic of China on August 17.

You have expressed your concern as Chairman of the Subcommittee on Separation of Powers of the Senate Committee on the Judiciary that the Joint Communique was an exercise of unilateral executive authority without legally sufficient Congressional input.

In responding to your concerns, it is important at the outset to ensure that we share a common understanding regarding the legal status and effect of the Joint Communique. The Joint Communique comprises parallel and interrelated statements of policy by China and the United States. The Communique is not an executive agreement, and it creates no binding rights or obligations under international law. Its status under U.S. law is that of a statement of the policy of the President, and its implementation will be subject to all relevant federal laws.

It is beyond question that the President possesses full constitutional authority to set forth statements of the foreign policy he intends to pursue. Such statements of the Executive's policy are recognized as being at the heart of the Executive's prerogatives in the conduct of U.S. foreign relations. The Communique is an example of such a policy and thus is clearly within the authority of the President.

Your letter suggests that the Taiwan Relations Act limits or otherwise regulates such expressions of Executive policy with respect to Taiwan in the absence of some action by Congress. Upon careful consideration, we have concluded that the Act imposes no requirements upon the President that have not been satisfied.

Section 3(b) of the Act provides that determination with respect to the provision of defense articles and services to Taiwan will be made by the President and Congress "in accordance with procedures established by law." The Taiwan Relations Act specifies no procedures for joint action by the Congress and the President. The only procedure established by other statutes that is pertinent to arms sales to Taiwan is that contained in the Arms Export Control Act, with which the President has fully complied.

Section 14 of the Act vests primary oversight responsibility for implementation of the Act in the Senate Committee on Foreign Relations and the House Committee on Foreign Affairs. Such oversight includes consultation with the Executive Branch regarding U.S. arms sales to Taiwan in implementation of Section 3 of the Act.

During the months preceding the issuance of the Joint Communique, there were regular and extensive discussions with both of those Committees. During these consultations, the committees were informed of the substance of the Communique and given an opportunity to express their views to the Administration. Both Committees have held hearings on this issue. In the hearings on August 18th before the Senate Committee on Foreign Relations, Chairman Percy expressed his satisfaction with the level of Congressional participation in the matter. Thus Congress has been appropriately involved in the manner contemplated by the Act.

In conclusion, we believe that the issuance of the Joint Communique was within the traditional power of the President to announce the Executive's policy. Any special concerns arising out of the Taiwan Relations Act have been addressed by full consultations with the Senate and House Committees having primary oversight responsibility under the Act. Therefore, we do not believe the issuance of the Communique raises any separation of powers issues.

Sincerely,

Powell A. Moore

Powell A. Moore
Assistant Secretary for
Congressional Relations

cc: The Honorable
Charles H. Percy,
Chairman,
Committee on Foreign Relations,
United States Senate.

The Honorable
Clement J. Zablocki,
Chairman,
Committee on Foreign Affairs,
House of Representatives.

THE SECRETARY OF DEFENSE
WASHINGTON, D.C. 20301

1982 AUG 30 PM [illegible]

3 SEP 1982

Honorable John P. East
Chairman
Subcommittee on Separation of Powers
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

Thank you for your letters of August 20 and 24, regarding certain aspects of the US-People's Republic of China Joint Communique.

The issues of constitutionality and separation of powers involving the Joint Communique are matters outside the purview of the DoD. Accordingly, it would be inappropriate for representatives of this Department to comment or testify on these matters. This Department would defer to the Department of State as that Department is charged with the oversight of US foreign policy and the review for legal sufficiency of all treaties and international agreements entered into by the US Government.

I appreciate your continued interest in matters involving our foreign policy.

Sincerely,

Frank Carlucci

Frank C. Carlucci
Deputy Secretary of Defense

CHAIRMAN OF THE JOINT CHIEFS OF STAFF
WASHINGTON

Honorable John P. East
Chairman,
Subcommittee on Separation of Powers
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman,

Thank you for your letter of August 24th inviting me to testify on issues concerning the U.S.-China Joint Communique and the Taiwan Relations Act.

The constitutional and separation of powers issues raised by the Joint Communique and the Taiwan Relations Act are matters outside the purview of the Joint Chiefs of Staff. Accordingly, it would not be appropriate for me to testify or comment on these matters. I understand that the Department of State is providing a witness on this matter and I defer to that department on this foreign policy issue.

Sincerely,

JOHN W. VESSEY, JR.
Chairman
Joint Chiefs of Staff

October 20, 1982

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

As you know, the Taiwan Relations Act states our national policy concerning American relations with Taiwan. Specifically, the Act declares "It is the policy of the United States. . . to provide Taiwan with arms of a defensive character; and to maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security, or the social or economic system, of the people on Taiwan." (Sections 2(b)(5) and 2(b)(6)) I concur with your previous public declarations that you will not forsake our friends on Taiwan in order to maintain and improve our relations with mainland China, and I support you in your repeated statements of fidelity to the Taiwan Relations Act.

The Joint Communique of August 17, 1982, regarding arms sales to Taiwan, however, has called into question whether the Taiwan Relations Act does, in fact, state our present policy. The policy announced in the Communique indicates that the United States "does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its arms sales to Taiwan, leading over a period of time to a final resolution." (Paragraph Six) In the context of the Communique, the term "final resolution" can only mean the termination of arms sales at some future point.

The Taiwan Relations Act says nothing about restricting United States arms sales to the short term or about placing qualitative or quantitative limits on the sales. Nor does the Act provide for the gradual reduction and ultimate termination of arms sales to Taiwan.

Your representative from the Department of State, John H. Holdridge, testified before the Senate Committee on Foreign Relations that our arms sales to Taiwan depend upon the political and military attitude or threat of mainland China to Taiwan. In effect, the Communique makes our national policy depend upon the actions of a third party, Communist China. The Act, however, says nothing about making the needs of Taiwan depend upon the foreign policy of Peking. The Red Chinese themselves stated on August 17, 1982, "The United States has no right to demand that China undertake any obligation as to the methods it chooses in solving the Taiwan problem, nor should the United States put forth as a prerequisite condition for the cessation of arms sales to Taiwan that China commit itself to not solving the Taiwan problem by any means other than a peaceful one."

Concerning the reduction of arms sales to Taiwan, Secretary Holdridge testified that the reduction will begin immediately: "We will not operate on the assumption that we will delay in this whole process." The Taiwan Relations Act does not provide for a policy of gradual reduction of arms sales. In your statement upon the issuance of the Communique, August 17, 1982, you said. "Arms sales will continue in accordance with the act and with the full expectation that the approach of the Chinese Government to the resolution of the Taiwan issue will continue to be peaceful." The Red Chinese, on the other hand, in their statement of August 17, 1982, stated that the Communique "has nothing to do with the 'Taiwan Relations Act' formulated unilaterally by the United States," and that the "final resolution" referred to in the Communique "certainly implies that the U.S. arms sales to Taiwan must be completely terminated over a period of time."

Mr. President, I am non-plussed by these conflicting statements, and I am deeply concerned that the American people and our allies abroad will erroneously believe that the principles set forth in the Taiwan Relations Act no longer constitute the law of the land. It is therefore imperative that the Executive Branch clarify its position and reiterate its intent to adhere to the law and to the statutory policy of the United States as expressed in the Taiwan Relations Act. I respectfully ask, therefore, that you issue forthwith an executive order to all appropriate federal agencies making it clear that America's policy regarding Taiwan is definitively stated in the Taiwan Relations Act, that arms sales to Taiwan shall not be reduced or terminated unless and until revision of the Taiwan Relations Act makes such reduction or termination the policy of the United States, and that the statements in Paragraph Six of the Joint Communique which conflict with the Taiwan Relations Act do not accurately reflect the lawful policy of this nation.

I fully understand that the execution of our policy towards the two peoples of China demands careful and creative action by the Administration. Only an executive order can dispel once and for all the confusion created in the minds of so many Americans, Free Chinese, and Mainland Chinese by the ambiguities in the Communique. Only an executive order can reaffirm our long-term moral and legal commitment to the security of our friends and allies on Taiwan and make clear that the Executive Branch will abide by the law of the land unless and until the same is changed by Act of Congress or by a Treaty approved by the Senate.

Thanking you for your attention, I am

Sincerely,

John P. East
United States Senator

JPE/bm

DEPARTMENT OF STATE
Washington, D.C. 20520

NOVEMBER 4 - 1982

Dear Senator East:

I have been asked by the White House to provide a further response to your letter to the President of October 20, requesting that an Executive Order be issued to clarify that U.S policy toward Taiwan is definitively stated in the Taiwan Relations Act.

After carefully considering the thoughtful argumentation expressed in your letter, we have come to the conclusion that there is no need for such an Executive Order. The President has stated on numerous occasions his intention to abide by the provisions of the TRA, which is the law of the land. As the President stated on August 17, our policy set forth in the U.S.-China Joint Communique regarding future U.S. arms sales to Taiwan is fully consistent with the TRA. Furthermore, to illustrate in a most definitive manner that U.S. arms sales to Taiwan will continue in accordance with the TRA, we sent a notification to Congress on August 19 of our intention to extend the F-5E fighter aircraft coproduction line on Taiwan.

With regard to your concern that the Communique implies a commitment on the part of the U.S. to a termination of U.S. arms sales to Taiwan, I can assure you that the Communique mandates nothing of the sort. Rather, the Communique sets forth a policy regarding future arms sales to Taiwan which is premised on an assessment of Taiwan's defense needs, the standard established in Section 3 of the TRA.

Again, as the President stated on August 17 with regard to the people of Taiwan: "My longstanding personal friendship and deep concern for their well-being is steadfast and unchanged. I am committed to maintaining the full range of contacts between the people of the United States and the people of Taiwan .... Such contacts will continue to grow and prosper and will be conducted with the dignity and honor befitting old friends."

Sincerely,

Powell A. Moore
Assistant Secretary for
Congressional Relations

The Honorable
John P. East,
United States Senate.

United States Senate
COMMITTEE ON THE JUDICIARY
WASHINGTON, D.C. 20510

STROM THURMOND, S.C., CHAIRMAN
CHARLES McC. MATHIAS, JR., MD.
PAUL LAXALT, NEV.
ORRIN G. HATCH, UTAH
ROBERT DOLE, KANS.
ALAN K. SIMPSON, WYO.
JOHN P. EAST, N.C.
CHARLES E. GRASSLEY, IOWA
JEREMIAH DENTON, ALA.
ARLEN SPECTER, PA.
JOSEPH R. BIDEN, JR., DEL.
EDWARD M. KENNEDY, MASS.
ROBERT C. BYRD, W. VA.
HOWARD M. METZENBAUM, OHIO
DENNIS DeCONCINI, ARIZ.
PATRICK J. LEAHY, VT.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

EMORY SNEEDEN, CHIEF COUNSEL
QUENTIN CROMMELIN, JR., STAFF DIRECTOR

SUBCOMMITTEE ON SEPARATION OF POWERS
JOHN P. EAST, N.C., CHAIRMAN
ORRIN G. HATCH, UTAH
JEREMIAH DENTON, ALA.
MAX BAUCUS, MONT.
HOWELL HEFLIN, ALA.

JAMES McCLELLAN, CHIEF COUNSEL AND STAFF DIRECTOR

November 5, 1982

The Honorable Powell A. Moore
Assistant Secretary for
Congressional Relations
Department of State
Washington, D.C. 20520

Dear Powell:

I appreciate the information I received in your letter of November 4, 1982, concerning the Taiwan Relations Act and the United States-Red Chinese Joint Communique of August 17, 1982.

Although I strenuously disagree with your conclusion that an Executive Agreement is not necessary to clarify the implications of the Joint Communique, I do note and take full account of your statement that "with regard to your concern that the Communique implies a commitment on the part of the U.S. to a termination of U.S. arms sales to Taiwan, I can assure you that the Communique mandates nothing of the sort." I accept that assurance as the position of the Executive Branch, and it is helpful in allaying the fear of many that the Joint Communique does suggest the future abandonment of our true friends in Free China.

I understand that answers to interrogatories previously submitted are presently being prepared, and I would appreciate your personal involvement in seeing that responses to the interrogatories are available in the near future.

With very best personal regards, I am

Sincerely yours,

John P. East
Chairman

Red China : Nine Point Statement of September 30, 1981

THE NEW YORK TIMES, THURSDAY, OCTOBER 1, 1981

Text of Statement by Peking

PEKING, Sept. 30 (AP) — Following is the text of the official English translation of China's reunification proposal to Taiwan, which was made public here today by the Foreign Ministry:

1. In order to bring an end to the unfortunate separation of the Chinese nation as early as possible, we propose that talks be held between the Communist Party of China and the Kuomintang of China on a reciprocal basis so that the two parties will cooperate for the third time to accomplish the great cause of national reunification. The two sides may first send people to meet for an exhaustive exchange of views.

2. It is the urgent desire of the people of all nationalities of both sides of the straits to communicate with each other, reunite with their relatives, develop trade and increase mutual understanding.

We propose that the two sides make arrangements to facilitate the exchange of mail, trade, air and shipping services and visits by relatives and tourists as well as academic, cultural and sports exchanges and reach an agreement thereupon.

3. After the country is reunified, Taiwan can enjoy a high degree of autonomy as a special administrative region and it can retain its armed forces. The central Government will not interfere with local affairs on Taiwan.

4. Taiwan's current socioeconomic system will remain unchanged, so will its way of life and its economic and cultural relations with foreign countries. There will be no encroachment on proprietary rights and lawful right of inheritance over private property, houses, land and enterprises or on foreign investments.

5. People in authority and representative personages of various circles in Taiwan may take up posts of leadership in national political bodies and participate in running the state.

6. When Taiwan's local finance is in difficulty, the central Government may subsidize it as is fit for the circumstances.

7. For people of all nationalities and public figures of various circles in Taiwan who wish to come and settle on the mainland, it is guaranteed that proper arrangments will be made for them, that there will be no discrimination against them and that they will have the freedom of entry and exit.

8. Industrialists and businessmen in Taiwan are welcome to invest and engage in various economic undertakings on the mainland, and their legal rights, interests and profits are guaranteed.

9. The reunificiation of the motherland is the responsibility of all Chinese. We sincerely welcome people of all nationalities, public figures of all circles and all mass organizations in Taiwan to make proposals and suggestions regarding affairs of state through various channels and in various ways.

We hope our compatriots in Taiwan will give full play to their patriotism and work energetically for the early realization of the great unity of our nation and share the honor of it.

Red China's Message to Compatriots on Taiwan

December 31, 1978

TEXT OF NPC STANDING COMMITTEE MESSAGE TO TAIWAN COMPATRIOTS

OW311521Y Peking NCNA in English 1512 GMT 31 Dec 78 OW

[Text] Peking, 31 Dec (HSINHUA)--Text of the New Year's Day message of the Standing Committee of the National People's Congress to compatriots in Taiwan, which was endorsed after discussion at the committee's fifth plenary session on December 26:

Dear compatriots in Taiwan:

Today is New Year's Day 1979. We hereby extend our cordial and sincere greetings to you on behalf of the people of all nationalities on the mainland of our motherland.

As an old saying goes, "a special festival calls up affectionate remembrances of our beloved ones." On this happy occasion as we celebrate New Year's Day, our thoughts turn all the more to our kith and kin, our old folks, our brothers and sisters, in Taiwan. We know you have the motherland and your kinsfolk on the mainland in mind too. This mutual feeling of many years standing grows with each passing day. From the day when Taiwan was regretably separated from the motherland in 1949, we have not been able to communicate with or visit each other, our motherland has remained disunited, relatives have been unable to have a reunion, and our nation, country and people have suffered great losses as a result. All Chinese compatriots and people of Chinese descent throughout the world, without exception, look forward to an early termination of this sad situation.

Our Chinese nation is a great nation. It accounts for almost a quarter of the world's population and has a long history and excellent culture, and its outstanding contributions to world civilization and human progress are universally recognized. Taiwan has been an inalienable part of China since ancient times. The Chinese nation has great vitality and cohesiveness. All through past history, foreign invasions and internal strife have failed to split our nation permanently. Taiwan's separation from the motherland for nearly 30 years has been artificial and against our national interests and aspirations, and this state of affairs must not be allowed to continue. Every Chinese, in Taiwan or on the mainland, has a compelling responsibility for the survival, growth and prosperity of the Chinese nation. The important task of reunifying our motherland, on which hinges the future of the whole nation, now lies before us all; it is an issue no one can evade or should try to. If we do not quickly set about ending this disunity so that our motherland is reunified at an early date, what can we say to our ancestors or to our descendants? This sentiment is shared by all; and who among the descendants of the yellow emperor wishes to be branded a traitor of all ages?

Radical changes have taken place in China's status in the world over the past 30 years. Our country's international prestige keeps rising and its international role becomes ever more important. The people and governments of almost all countries now place tremendous hopes on us in the struggle against hegemonism and in safeguarding peace and stability in Asia and the world as a whole. Every Chinese is proud to see the growing strength and prosperity of our motherland. If we can end the present disunity and join forces soon, there will be no limit to our contributions to the future of mankind. Early reunification of our motherland is not only the common desire of all the people of China, including all compatriots in Taiwan, but the common wish of all peace-loving peoples and countries the world over.

Reunification of China now fits in with the direction of popular feeling and the general trend of development. The world in general recognizes only one China, with the Government of the People's Republic of China as the sole legal government. The recent conclusion of the China-Japan treaty of peace and friendship and the normalization of relations between China and the United States show still more clearly that no one can stop this trend. The present situation in the motherland, one of stability and unity, is better than ever. The people of all nationalities on the mainland are working hard and with one will for the great goal of the four modernizations. It is our fervent hope that Taiwan returns to the embrace of the motherland at an early date so that we can work together for the great cause of national development. Our state leaders have firmly declared that they will take present realities into account in accomplishing the great cause of reunifying the motherland and respect the status quo on Taiwan and the opinions of people in all walks of life there and adopt reasonable policies and measures in settling the question of reunification so as not to cause the people of Taiwan any losses. On the other hand, people in all walks in Taiwan have expressed their yearning for their homeland and old friends, stated their desire "to trace their roots and return", and raised diverse proposals which express their earnest hope for an early return to the embrace of the motherland. With all conditions now favourable for reunification and everything set, no one should go against the will of the nation and counter the trend of history.

We place great hopes on the 17 million people on Taiwan and also the Taiwan authorities.

The Taiwan authorities have always taken a firm stand of one China and opposed an independent Taiwan. This is our common stand and the basis for our cooperation. We have always taken the position that all patriots belong to one family. The responsibility for reunifying the motherland rests with each of us. We hope the Taiwan authorities will place national interests paramount and make valuable contributions to the reunification of the motherland.

The Chinese Government has ordered the People's Liberation Army to stop the bombardment of Quemoy and other islands as from today. A state of military confrontation between the two sides still exists along the Taiwan straits. This can only create artificial tension. We hold that first of all this military confrontation should be ended through discussion between the Government of the People's Republic of China and the Taiwan authorities so as to create the necessary prerequisites and a secure environment for the two sides to make contacts and exchanges in whatever area.

The prolonged separation has caused a lack of mutual understanding between the compatriots on the mainland and on Taiwan and various inconveniences for both sides. Since many Overseas Chinese residing in foreign lands far away can return for visits and tours and reunion with their families, why shouldn't compatriots living so near, on the mainland and Taiwan, visit each other freely? We believe that there is no reason for such barriers to continue. We hope both sides will bring about at an early date the setting up of transportation and postal services to make it easier for compatriots of both sides to contact each other directly, write to each other, visit relatives and friends, exchange tours and visits and make academic, cultural, sports and technological interchange.

Economically speaking, Taiwan and the mainland of the motherland were originally an entity. Unfortunately, economic ties have been suspended for many years. Now, construction is going on vigorously in the motherland and we also wish Taiwan growing economic prosperity. There is every reason for us to develop trade between us, each making up what the other lacks and create economic interflow.

This is our mutual need and will benefit both parties without doing any harm.

Dear compatriots in Taiwan:

The bright future of our great motherland belongs to us and also to you. The reunification of the motherland is the sacred mission history has bequeathed to our generation. Times are moving along and the situation is developing. The earlier we fulfil this mission, the sooner we can jointly write an unprecedented, brilliant page in the history for our country, catch up with advanced powers and work together with them for world peace, prosperity and progress. Let us join hands and work together for this glorious goal!

EXHIBIT B.--RED CHINESE RELEASES AND SUMMARY ANALYSES

[From Foreign Broadcast Information Service]

1. 17 Aug 82 PRC INTERNATIONAL AFFAIRS B 1
UNITED STATES

PRC-U.S. COMMUNIQUE ON TAIWAN ARMS SALES ISSUED

Text of Communique

OW171102 Beijing XINHUA in English 1100 GMT 17 Aug 82

["China, U.S. Issue Joint Communique on U.S. Arms Sales to Taiwan" -- XINHUA headline; Beijing XINHUA Domestic Service in Chinese at 1131 GMT carried the "text" of this communique; the transliterations and STC's supplied following the capitalized passages below are derived from that account, as is the one variant wording below.]

[Text] Beijing, August 17 (XINHUA) -- The Governments of China and the United States today issued a joint communique on GRADUALLY REDUCING AND FINALLY RESOLVING [fen bu zhou zhi dao zui hou che di jie jue 0433 2976 7532 4160 0451 2584 0683 1796 1646 6043 0414] U.S. arms sale to Taiwan. [The Domestic Service account renders final phrase as ". . . resolving the question of U.S. arms sales to Taiwan." Adding words "the question."]

分步骤直到最后彻底解决

1. In the joint communique on the establishment of diplomatic relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it ACKNOWLEDGED [cheng ren 承认 2110 6126] the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

2. The question of United States arms sales to Taiwan was not settled in the course of negotiations between the two countries on establishing diplomatic relations. The two sides held differing positions, and the Chinese side stated that it would raise the issue again following normalization. Recognizing that this issue would seriously hamper the development of United States-China relations, they have held further discussions on it, during and since the meetings between President Ronald Reagan and Premier Zhao Ziyang and between Secretary of State Alexander M. Haig, Jr., and Vice Premier and Foreign Minister Huang Hua in October 1981.

3. Respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs constitute the fundamental principles guiding United States-China relations. These principles were confirmed in the Shanghai Communique of February 28, 1972, and reaffirmed in the joint communique on the establishment of diplomatic relations which came into effect on January 1, 1979. Both sides emphatically state that these principles continue to govern all aspects of their relations.

4. The Chinese Government reiterates that the question of Taiwan is China's internal affair. The message to compatriots in Taiwan issued by China on January 1, 1979, promulgated a fundamental policy of striving for peaceful reunification of the motherland. The nine-point proposal put forward by China on September 30, 1981, represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

理解并欣赏

5. The United States Government attaches great importance to its relations with China and reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one, China, one Taiwan." The United States Government UNDERSTANDS AND APPRECIATES [li jie bing xian shang 3810 6043 0017 2946 6339] the Chinese policy of striving for a peaceful resolution of the Taiwan as indicated in China's message to compatriots in Taiwan issued on January 1, 1979, and the nine-point proposal put forward by China on September 30, 1981. The new situation which has emerged with regard to the Taiwan question also provides favorable conditions for the settlement of United States-China differences over United States arms sales to Taiwan.

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, EITHER IN QUALITATIVE OR IN QUANTITATIVE TERMS, [zai xing neng he shu liang shang 0961 1840 5174 0735 2422 6852 0006], the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that IT INTENDS GRADUALLY TO REDUCE [ta chun bei zhu bu jian shao 1338 0402 0271 6632 2975 8096 [illegible]] its sale of arms to Taiwan, leading, over a period of time, to a FINAL RESOLUTION [zui hou di jie jue 2584 0683 4104 6043 0414]. 最后的解决 In so stating, the United States ACKNOWLEDGES [cheng ren 2110 6126] China's consistent position regarding the thorough settlement of this issue. 承认

它准备逐步减少

7. In order to bring about, over a period of time, a final settlement of the question of United States arms sales to Taiwan, which is an issue rooted in history, the two governments will make every effort to adopt measures and create conditions conducive to the thorough settlement of this issue.

8. The development of United States-China relations is not only in the interests of the two peoples, but also conducive to peace and stability in the world. The two sides are determined, on the principle of equality and mutual benefit, to strengthen their ties in the economic, cultural, educational scientific, technological and other fields and make STRONG [zhong da 6850 1129], joint efforts for the continued development of relations between the governments and peoples of the United States and China.

[illegible]壮大

9. In order to bring about the healthy development of United States-China relations, maintain world peace and oppose aggression and expansion, the two governments reaffirm the principles agreed on by the two sides in the Shanghai Communique and the joint communique on the establishment of diplomatic relations. The two sides will maintain contact and hold appropriate CONSULTATIONS [cuo shang 4322 0794] on bilateral and international issues of common interest.

磋商

OW171121 Beijing XINHUA in English 1116 GMT 17 Aug 82

[Text] Beijing, August 17 (XINHUA) -- The spokesman of the Ministry of Foreign Affairs of the People's Republic of China today made a statement on the China-U.S. joint communique on the settlement of the issue of U.S. arms sales to Taiwan. The statement reads as follows:

1. Following discussions, the Government of the People's Republic of China and the Government of the United States of America have reached agreement on the question of United States sale of arms to Taiwan. The two sides have released the joint communique simultaneously today.

The United States sale of arms to Taiwan is an issue which affects China's sovereignty. Back in 1978, when the two countries held negotiations on the establishment of diplomatic relations, the Chinese Government stated in explicit terms its opposition to the U.S. arms sales to Taiwan. As this issue could not be settled at that time, the Chinese side suggested that the two sides continue discussions on the issue following the establishment of diplomatic relations. It is evident that failure to settle this issue is bound to impair seriously the relations between the two countries.

With a view to safeguarding China's sovereignty and removing the obstacle to the development of relations between the two countries, Premier Zhao Ziyang held discussions with President Ronald Reagan on this issue during the Cancun meeting in Mexico in October 1981. Subsequently, Vice Premier and Foreign Minister Huang Hua continued the discussions with Secretary of State Alexander M. Haig, Jr., in Washington. As from December 1981, the two sides started concrete discussions through diplomatic channels in Beijing. During this period, U.S. Vice President George Bush, entrusted by President Reagan, paid a visit to China in May 1982, when he held discussions with the Chinese leaders on the same subject. [Beijing XINHUA Domestic Service in Chinese at 1144 GMT on 17 Aug carries a virtually identical account of the Foreign Ministry spokesman's statement. It reads as follows at this point: "...when he held discussions with the Chinese leaders. The joint communique...." deleting words] The joint communique released by the two sides today is the outcome of repeated negotiations between China and the United States over the past ten months. It has laid down the principles and steps by which the question of U.S. arms sales to Taiwan should be settled.

2. The joint communique reaffirms the principles of respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs as embodied in the Shanghai Communique and the joint communique on the establishment of diplomatic relations between China and the United States. Both sides also emphatically state that these principles continue to govern all aspects of their relations. That is to say, the question of U.S. arms sales to Taiwan must be settled on these principles. Needless to say, only by strictly observing these principles in dealing with the existing or new issues between the two countries will it be possible for their relations to develop healthily.

3. In compliance with the above principles governing the relations between the two countries, the U.S. arms sales to Taiwan should have been terminated altogether long ago. But considering that this is an issue left over by history, the Chinese Government, while upholding the principles, has agreed to settle it step by step. The U.S. side has committed that, as the first step, its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the two countries, and that they will be gradually reduced, leading to a final resolution of this issue over a period of time. The final resolution referred to here certainly implies that the U.S. arms sales to Taiwan must be completely terminated over a period of time. And only a thorough settlement of this issue can remove the obstacles in the way of developing relations between the two countries.

4. In the joint communique, the Chinese Government reiterates in clear-cut terms its position that "the question of Taiwan is China's internal affair." The U.S. side also indicates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of "two Chinas" or "one China, one Taiwan." The Chinese side refers in the joint communique to

its fundamental policy of striving for peaceful reunification of the motherland for the purpose of further demonstrating the sincere desire of the Chinese Government and people to strive for a peaceful solution to the Taiwan question. On this issue, which is purely China's internal affair, no misinterpretation or foreign interference is permissible.

5. It must be pointed out that the present joint communique is based on the principle embodied in the joint communique on the establishment of diplomatic relations between China and the United States and the basic norms guiding international relations and has nothing to do with the "Taiwan Relations Act" formulated unilaterally by the United States.

The "Taiwan Relations Act" seriously contravenes the principles embodied in the joint communique on the establishment of diplomatic relations between the two countries, and the Chinese Government has consistently been opposed to it. All interpretations designed to link the present joint communique to the "Taiwan Relations Act" are in violation of the spirit and substance of this communique and are thus unacceptable. [The XINHUA Domestic Service version reads as follows at this point: "... All interpretations designed to try to link the present joint communique ...." adding words]

6. The agreement reached between the Governments of China and the United States on the question of U.S. arms sales to Taiwan only marks a beginning of the settlement of this issue. What is important is that the relevant provisions of the joint communique are implemented in earnest, so that the question of U.S. arms sales to Taiwan can be resolved thoroughly at an early date. This is indispensable to the maintenance and development of Sino-U.S. relations.

RENMIN RIBAO 17 Aug Editorial

HK171359 Beijing XINHUA Domestic Service in Chinese 1114 GMT 17 Aug 82

[Text] Beijing, 17 Aug (XINHUA) -- RENMIN RIBAO publishes an editorial on 17 August entitled "Strictly Observe the Agreement and Overcome Obstructions." The following is the text of the editorial:

The Governments of China and the United States issued a joint communique on 17 August announcing that they have reached agreement on U.S. arms sales to Taiwan, following a step-by-step approach leading to the final and complete settlement of the problem. The crisis that threatened Sino-U.S. relations in recent months has thus been eased. This is an act that people welcome.

Since the establishment of Sino-U.S. diplomatic relations, the relations between the two countries have developed, and this has been welcomed by peoples of the two countries. However, the relations between the two countries were always shrouded in dark clouds. Everyone knows that an important principle governing the normalization of Sino-U.S. relations is that the United States recognizes that there is only one China and that Taiwan is part of China and that the PRC Government is the sole legal government of China. After the establishment of Sino-U.S. relations, however, the United States formulated the "Taiwan Relations Act" and regarded Taiwan as a political entity and persisted in selling weapons to Taiwan. Such an act of brazenly violating China's sovereignty and interfering in China's internal affairs was naturally and resolutely opposed by the Chinese Government and people. The Chinese Government time and again reiterated its position, asking the United States to stop selling weapons to Taiwan. With regard to a problem that is connected to its sovereignty, the Chinese Government and people will never make any unprincipled concession. If this problem is not properly solved, not only will Sino-U.S. relations not be maintained and consolidated, but on the contrary, they will face the possibility of retrogression.

Now, after consultations and negotiations, an agreement has finally been reached between China and the United States. In the joint communique, both sides first reaffirmed the basic principles governing Sino-American relations, which were established in the Shanghai Communique and the communique on the establishment of diplomatic relations between China and the United States, namely, "mutual respect of sovereignty and territorial integrity and noninterference in each other's internal affairs," and emphatically declared that these principles still govern every aspect of Sino-American relations. Obviously, this includes the issue of selling arms to Taiwan by the United States. It not only touches the main point of the problem, but also points out the correct way for resolving this problem.,

Both China and the United States are equal sovereign countries and the relations between the two countries must be built on the basis of the five principles of peaceful coexistence. "Mutual respect of sovereignty and territorial integrity and noninterference in each other's internal affairs" as stated in the five principles must not be empty talk, but should be the principle which both sides have to uphold in practical activities. The United States has repeatedly expressed that it will respect China's sovereignty and territorial integrity and that it has no intention of interfering in China's internal affairs. The problem now is that the United States must be as good as its word and take practical measures to solve the problem of selling arms to Taiwan.

China has always adhered to a clear-cut stand on the problem of U.S. arms sales to Taiwan. We hold that the United States, in selling arms to Taiwan, has violated China's sovereignty; we resolutely oppose this U.S. action. However, in view of the historical factors and in light of the actual circumstances, we agree that the United States may gradually reduce and eventually terminate its arms sales to Taiwan under the prerequisite that the United States respects China's sovereignty in real earnest. In the joint communique, the United States has made three commitments: 1) the specifications of the weapons sold by the United States to Taiwan will not exceed in quality or quantity the level of recent years following establishment of diplomatic relations between China and the United States; 2) the United States will gradually reduce its arms sales to Taiwan; 3) a final settlement of this problem will be reached after a certain period of time. Furthermore, the United States also declared: "It does not seek to carry out a long-term policy of selling weapons to Taiwan." "The United States recognizes China's consistent stand concerning the thorough settlement of this problem." All these are fundamental requirements which the United States must fulfill.

Taiwan is China's territory and the method we choose to solve the Taiwan problem is entirely a problem of China's internal affairs. The United States has no right to demand that China undertake any obligation as to the methods it chooses in solving the Taiwan problem, nor should the United States put forth as a prerequisite condition for the cessation of arms sales to Taiwan that China commit itself to not solving the Taiwan problem by any menas other than a peaceful one. Otherwise, the United States will be interfering in China's internal affairs. During the past few years, we have made tremendous efforts to realize the peaceful reunification of the motherland. The United States has also expressed its understanding and appreciation of China's policy for a peaceful solution of the Taiwan problem. This being the case, the United States should stop its arms sales to Taiwan as soon as possible and refrain from standing in the way of China's peaceful solution of the Taiwan problem.

The issuance of the Sino-U.S. joint communique has broken the deadlock between the two countries in solving the problem of arms sales to Taiwan, but this does not mean that the problem has been completely solved. The dark cloud that has blurred the prospects of Sino-U.S. relations has not been completely swept away. The United States has given some promises, but we have to wait and see whether or not it will prove its sincerity by its actions. We hope that the U.S. Government will sincerely carry out what it has promised and actually, not perfunctorily, reduce its arms sales to Taiwan. Moreover, we hope that the United States will do, as it has promised, its best to adopt measures and create conditions in order to solve this problem at the earliest possible date, and it should not use any excuse to delay the solution to this problem.

It is still necessary to point out that the fundamental obstacle to the development of Sino-U.S. relations is the U.S. "Taiwan Relations Act." The so-called "Taiwan Relations Act" completely violates the principles of the Sino-U.S. joint communique on establishing diplomatic relations. If the decision-makers in Washington insist on handling the relations between both countries in accordance with this U.S. domestic act, Sino-U.S. relations will not only come to a standstill, but will definitely face another crisis. [Beijing XINHUA in English at 1137 GMT on 17 August carries a report on the RENMIN RIBAO 17 August editorial. That version reads as follows at this point: "...Sino-U.S. relations, instead of being further developed, will certainly face yet another grave crisis."]

Sino-U.S. relations traveled a tortuous path before normalization of relations was achieved. In other words, normalization of relations did not come easily. The Chinese Government and the Chinese people hope that Sino-U.S. relations will be further developed and have made great efforts on this. The reason for this is because we think that such relations not only accord with the fundamental interests of both China and the United States, but are also conducive to safeguarding world peace and stability. However, the maintenance, consolidation and development of Sino-U.S. relations cannot rely solely on the efforts of China. If the United States really treasures Sino-U.S. relations, it should comply with the principles of the Sino-U.S. joint communique on establishing diplomatic relations in its actual practice and fulfill its promises made in the joint communique which was released on 17 August.

U.S. OFFICIALS SAID TO DISTORT COMMUNIQUE

OW201938 Beijing XINHUA in English 1913 GMT 20 Aug 82

[Text] Beijing, August 20 (XINHUA) -- High-ranking government officials of the United States briefed the press and Congress on the China-U.S. joint communique soon after its publication. In their talks, they stressed on the one hand the importance of developing U.S.-China relations, considering the communique as a vital step forward in solving the differences between China and the United States on the issue of U.S. arms sales to Taiwan. On the other hand, however, they made distorted interpretations of certain contents in the communique.

Speaking before the Senate Foreign Affairs Committee Tuesday, U.S. Assistant Secretary of State for East Asia and Pacific Affairs John Holdridge pointed to the need of preserving and advancing relations between the United States and China. This, he said, is "a fundamental national interest of the United States." But, on articles in the communique concerning U.S. arms sales to Taiwan, he made distorted interpretations of some of them, underscoring that "as a matter of fact and law, any adjustments in our arms sales to Taiwan had to be premised on a continuation of China's peaceful policy (towards Taiwan)."

He also said: "Our guiding principle is now and will continue to be that embodied in the Taiwan Relations Act -- the maintenance of a self-defense capability sufficient to meet the military needs of Taiwan..."

Here, it should be pointed out once again that U.S. arms sales to Taiwan and China's efforts for peaceful resolution of the Taiwan issue are two separate questions of an entirely different nature. In what way the Taiwan issue is to be resolved is purely an internal affair of China, brooking no external interference. In the communique, the Chinese Government reiterates its policy of striving to resolve the Taiwan issue peacefully and its stand that the Taiwan issue is China's internal affair. This can in no way be explained as any commitments China made to the United States, and any misrepresentation of a U.S. stop to arms sales to Taiwan as having to be premised by peaceful resolution of the Taiwan issue will be a continued, premeditated interference in China's internal affairs. As for the "Taiwan Relations Act," which was unilaterally introduced by the United States, it not only constitutes a grave violation of the commitment the U.S. Government made at the time when relations between the United States and China were normalized and of the principles in the related China-U.S. communique, it also runs counter to the fundamental norms in international relations.

On the same day, a U.S. senior official made a speech similar to that of John Holdridge mentioned above at a background briefing on the China-U.S. joint communique. The official even described the U.S. recognition of an important principle in the joint communique on the establishment of diplomatic relations between the United States and China, i.e., that there is but one China, Taiwan is part of China and the Government of the People's Republic of China is the sole legal government of China, as only a U.S. acknowledgement of the Chinese position on this issue. "But we don't take any particular stand of our own with respect to it," he said.

Referring to the arms sale to Taiwan, the official distorted the statement in the communique that "it (the United States) intends gradually to reduce its sale of arms to Taiwan, leading, over a period of time, to a final resolution," by saying that "the statements of future U.S. arms sales policy embodied in the communique do not provide either a time frame for reductions of U.S. arms sales or for their termination." By saying so, he attempted to evade U.S. responsibilities.

These statements of U.S. officials, obviously, go against the principle that the U.S. side "has no intention of infringing on Chinese sovereignty...or interfering in China's internal affairs," and the U.S. commitment to the issue of arms sale to Taiwan, namely, against the principle and commitment the U.S. Government declared in the China-U.S. joint communique.

[From Chinese Communist Party Chairman Hu Yaobang's speech to the 12th Party Congress—section on foreign policy]

I. 8 Sep 82 K 18 CHINA
PRC NATIONAL AFFAIRS

V. Adhering to an Independent Foreign Policy

China's future is closely bound up with that of the world as a whole. The successes China has achieved in its revolution and construction provide a powerful support to the world's movement for progress and a bright future, and conversely, our successes would have been impossible without the struggles of the people of other countries for a bright future. China has received help from other countries and peoples, and in turn has helped others. In the early years of our People's Republic, Comrade Mao Zedong pointed out: "Our general task is to unite the whole people and win the support of all our friends abroad in the struggle to build a great socialist country, defend world peace and advance the cause of human progress." Note (7) Integration of patriotism with internationalism has always been our basic point of departure in handling our external relations.

Being patriots, we do not tolerate any encroachment on China's national dignity or interests. Being internationalists, we are deeply aware that China's national interests cannot be fully realized in separation from the overall interests of mankind. Our adherence to an independent foreign policy accords with the discharging of our lofty international duty to safeguard world peace and promote human progress. In the thirty-three years since the founding of our People's Republic, we have shown the world by deeds that China never attaches itself to any big power or group of powers, and never yields to pressure from any big power. China's foreign policy is based on the scientific theories of Marxism-Leninism and Mao Zedong Thought, and it proceeds from the fundamental interests of the people of China and the rest of the world. It follows an overall long-term strategy, and is definitely not swayed by expediency or by anybody's instigation or provocation. Because we have firmly applied the basic principles of our foreign policy formulated by the late Comrades Mao Zedong and Zhou Enlai, socialist New China has gained prestige, made friends throughout the world and maintained its dignity in its relations with foreign countries.

The five principles of mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each others' internal affairs, equality and mutual benefit, and peaceful coexistence whave consistently guided China in its effort to develop relations with other countries. Having suffered aggression and oppression for over a century, the Chinese people will never again allow themselves to be humiliated as they were before, nor will they subject other nations to such humiliation. The founding of our People's Republic has removed the social causes both of China's submission to foreign aggression and of any possibility of China committing aggression abroad. Frederick Engels said: "A nation cannot become free and at the same time continue to oppress other nations." Note (8) This is an incontestable truth. We Marxists-Leninists are convinced that communism will ultimately be realized throughout the world. However, revolution cannot be exported but can occur only by the choice of the people of the country concerned. It is on the basis of this understanding that we have always abided by the five principles of peaceful coexistence. We do not station a single soldier abroad, nor have we occupied a single inch of foreign land. We have never infringed upon the sovereignty of another country, or imposed an unequal relationship upon it. In no circumstances will we seek hegemony.

The five principles of peaceful coexistence are applicable to our relations with all countries, including socialist countries. On the basis of these principles we have in the past thirty-three years established diplomatic relations with 125 countries. With the friendly socialist countries of Korea, Romania and Yugoslavia, we maintain close co-operation and are steadily strengthening and developing ties of unity and friendship. China and many other developing countries in Asia, Africa and Latin America sympathize with and support one another, and have enhanced their co-operation in all fields. Many Western countries have social systems different from China's, yet we share a common desire to safeguard world peace and a common interest in developing our economic and cultural co-operation, for which the potentials are great, and we have maintained good relations over the years. The past few years have also seen some development in our relations with East European countries.

Japan is China's neighbour. Since ancient times, there have been frequent exchanges and a profound friendship between the Chinese and Japanese peoples. But, during a hundred years of modern history, the Japanese militarists unleashed one war of aggression after another against China, inflicting colossal calamities on the Chinese people and grievous damage on the Japanese people themselves. Thanks to long years of joint efforts made by the Chinese and Japanese peoples, state relations were eventually normalized ten years ago. The development of relations of peace and friendship, equality and mutual benefit, and prolonged stability between China and Japan is in accord with the long term interests of the two peoples and conducive to the peace and stability of the Asian-Pacific region. Now some forces in Japan are white-washing the past Japanese aggressions against China and other east Asian countries and are carrying out activities for the revival of Japanese militarism. These dangerous development cannot but put the people of China, Japan and other countries sharply on the alert. Together with the Japanese people and with far-sighted Japanese public figures in and out of government, we will work to eliminate all hindrances to the relations between our two countries and make the friendship between our two peoples flourish from generation to generation.

Since the establishment of diplomatic ties between China and the United States of America in 1978, relations between the two countries have developed in the interests of the two peoples. We have always hoped that these relations will continue to grow, and consider this beneficial to our two peoples and to world peace. However, a cloud has all along hung over the relations between the two countries. This is because the United States, despite having recognized that the Government of the People's Republic of China is China's sole legal government and that there is only one China and Taiwan is part of China, has passed the Taiwan Relations Act which contravenes the principles embodied in the joint communique on the establishment of diplomatic relations, and it has continued to sell arms to Taiwan, treating Taiwan as an independent political entity. As the Chinese Government has repeatedly stated, these are acts of infringement on China's sovereignty and of interference in China's internal affairs. Not long ago, after nearly a year of talks, the Chinese and U.S. Governments issued a joint communique providing for a step-by-step solution of the question of U.S. arms sales to Taiwan, leading to a final thorough settlement.

We hope that these provisions will be strictly observed. Sino-U.S. relations can continue to develop soundly only if the principles of mutual respect for sovereignty and territorial integrity and non-interference in each other's internal affairs are truly adhered to.

The relations between China and the Soviet Union were friendly over a fairly long period. They have become what they are today because the Soviet Union has pursued a hegemonist policy. For the past twenty years, the Soviet Union has stationed massive armed forces along the Sino-Soviet and Sino-Mongolian borders. It has supported Vietnam in the latter's invasion and occupation of Kampuchea, acts of expansion in Indochina and Southeast Asia and constant provocations along China's border. Moreover, it has invaded and occupied Afghanistan, a neighbour of China, by force of arms. All these acts constitute grave threats to the peace of Asia and to China's security. We note that Soviet leaders have expressed more than once the desire to improve relations with China. But deeds, rather than words, are important. If the Soviet authorities really have a sincere desire to improve relations with China and take practical steps to lift their threat to the security of our country, it will be possible for Sino-Soviet relations to move towards normalization. The friendship between the Chinese and Soviet peoples is of long standing, and we will strive to safeguard and develop this friendship, no matter what Sino-Soviet state relations are like.

The main forces jeopardizing peaceful coexistence among nations today are imperialism, hegemonism and colonialism. True, the old system of colonialism has distintegrated with the successive winning of independence by nearly a hundred former colonial and semi-colonial countries. Yet its remnants are far from being eliminated. The superpowers that practise hegemonism pose a new threat to the people of the world. In their pursuit of global domination, the superpowers have been contending on a worldwide scale with military power far exceeding that of any other countries. This is the main source of instability and turmoil in the world. The most important task for the people of the world today is to oppose hegemonism and safeguard world peace. Due to the rivalry between the superpowers, the danger of a world war is growing ever greater. However, experience shows that the people of the world, by persevering in struggle, can upset the strategic plans of the superpowers. World peace can be safeguarded, provided the people truly unite and fight resolutely against all expressions of hegemonism and expansionism. We have always firmly opposed the arms race between the superpowers, stood for the prohibition of the use of nuclear weapons and for their complete destruction and demanded that the superpowers be the first to cut their nuclear and conventional arsenals drastically. We are against the world war being fomented by the superpowers and also against all the local wars of aggression which they instigate or back. We have always firmly supported all victim countries and peoples in their struggle against aggression. We support the Korean people in their struggle to reunify their fatherland. We support the Kampuchean people led by the Coalition Government of Democratic Kampuchea in their struggle against Vietnamese aggression. We support the people of Afghanistan in their struggle against Soviet aggression. We support the African people in their struggle against South Africa' racism and expansionism. We strongly condemn Israel for its heinous aggression and atrocities against the people of Palestine and Lebanon. With support and protection from the U.S. hegemonists, Israel has outrageously occupied Palestine and carried out repeated armed aggression against Arab countries, posing a grave threat to peace in the Middle East and the world as a whole. We continue our resolute support for the Palestinian people in their struggle to return to their homeland and to found their own state and for other Arab peoples in their struggle against Israeli expansionism.

Socialist China belongs to the Third World. China has experienced the same sufferings as most other Third World countries, and she is faced with similar problems and tasks. China regards it as her sacred international duty to struggle resolutely against imperialism, hegemonism and colonialism together with the other Third World countries.

The emergence of the Third World on the international arena after World War II is a primary event of our time. It has changed the United Nations from a mere voting machine manipulated by certain big powers into a forum where imperialism, hegemonism and expansionism are often justly condemned. The struggle initiated by Latin American countries against the maritime hegemony of the superpowers and the struggles of the petroleum exporting countries and other raw material producing countries for permanent sovereignty over their own natural resources, the struggle of the nonaligned countries against power politics and bloc politics and the struggles of the developing countries for the establishment of a new international economic order -- all these struggles have converged into a mighty current of forces upholding justice in our time and greatly changed the situation in which the superpowers could wilfully manipulate the fate of the world.

The common task confronting the Third World countries is, first and foremost, to defend their national independence and state sovereignty and actively develop their national economies so that they can back up the political independence they have already won with economic independence. Here, mutual aid among Third World countries is of particular importance. We Third World countries have vast territories, large populations, immense resources and extensive markets. Some of us have accumulated considerable funds, and many have acquired their own distinctive technologies and gained experience in developing their national economies which the others can learn from. Our mutual economic co-operation, common known as "South-South co-operation", is no less effective than our co-operation with developed countries so far as some kinds of our technology and equipment are concerned in meeting mutual needs. Such co-operation is of great strategic significance, as it helps us to break out of the existing unequal international economic relations and establish the new international economic order.

China is still a developing country, but we have always done our best to help other Third World countries, with whom we share a common destiny. The Chinese people have always spurned attitudes and actions of despising the poor and currying favour with the rich, bullying the weak and fearing the strong. Our friendship with other Third World countries is sincere. Whether in providing aid or co-operating for mutual benefit, we have always strictly respected the sovereignty of the other party, attaching no strings and demanding no privileges. As our economy grows, we will steadily expand our friendly co-operation with other countries and peoples of the Third World.

We are deeply disturbed by the discords, going as far as armed conflicts, that have occurred between some Third World countries. They often cause heavy losses to both sides and at times allow the hegemonists to pick up easy gains. We always work for increased unity among the Third World countries in the hope that the parties to such disputes will resolve them through consultations and avoid any results that grieve friends and gladden enemies.

Here I would especially like to discuss the question of relationships between the Communist Party of China and those of other countries. Our party develops its relations with other communist or working-class parties in strict conformity with Marxism and the principles of independence, complete equality, mutual respect and non-interference in each other's internal affairs.

The success of the revolution in any country depends on the ripeness of conditions for it and the people's support for the line and policies of that country's communist party. Communist parties should of course help each other, but it is absolutely impermissible for any of them to issue orders or run things for others from the outside. Any attempt by one party to impose its views on other parties or interfere in their internal affairs can only lead to setbacks or failures in the revolutions of the countries concerned. As for the practice of one party compelling other parties to make their policies serve its own party and state policies, or even resorting to armed intervention in other countries, it can only undermine the very foundation of the international communist movement.

The communist parties of all countries are equal. Whether large or small, long or short in their history, in power or out of power, they cannot be divided into superior and inferior parties. Our party has suffered from the attempt of a self-elevated paternal party to keep us under control. As is commonly known, it is through resisting such control that our independent external policy has won its successes.

We hold that all communist parties should respect each other. Each party has its strong and weak points. Being situated in different circumstances, all parties cannot be expected to hold completely identical views on the assessment of situations and on their own tasks. Their differences of opinion can only be resolved gradually through friendly consultations and patiently giving each other time. We are in favour of all communist parties learning from each others successes and failures, believing that this will help the international communist movement to grow and flourish.

On the principles mentioned above, our party has maintained friendly relations with many other communist parties. We sincerely appreciate their support and help and are conscientiously learning from their experience whatever can be of help to our revolution and construction. And we wish to establish similar contacts with a greater number of progressive parties and organizations. Setting store by their friendship with the people of other countries, the Chinese people have developed extensive contacts with them. In the final analysis, steadily increasing understanding and co-operation among the people of all countries is the basic guarantee of progress and a bright future for the world.

Being a large country with a population of one billion, China ought to make a greater contribution to the world community, and it is only natural that people place hopes on us. Yet what we have accomplished falls far short of what we ought to have done. We will redouble our efforts to step up our construction so as to play our due role in safeguarding world peace and promoting human progress.

U.S. 'ANTI-CHINA ELEMENTS' ATTACK COMMUNIQUE

OW221934 Beijing XINHUA in English 1906 GMT 22 Sep 82

["Anti-China Elements in U.S. Become Active -- by correspondent Yu Enguang" -- XINHUA headline]

[Text] Washington, September 22 (XINHUA) -- A handful of rightist elements in the United States have been bent on a noisy campaign challenging the China-U.S. joint communique on the question of U.S. arms sales to Taiwan.

In the one month or more since the communique was issued, they have made utterances or published articles against China, trying to bring pressure to bear on the Reagan administration on the matter.

Though limited in number, they seem quite stubborn and arrogant in striking contrast with the many sensible figures from diverse circles who are elated over the communique and looking forward to better Sino-U.S. relations.

On the night of September 16, the American Conservative Union, backed by some congressmen, went so far as to give "lectures" in the hall of the Senate in support of the so-called "Republic of China." Then, in the following morning, a "separation of powers" subcommittee of the Senate held a hearing on the China-U.S. joint communique.

Most of those who stood in the limelight on both occasions had been making anti-China remarks in recent months. Among them were some conservative senators and the former CIA chieftain in Taiwan, Ray Cline, who has now claimed to be a scholar.

In their attacks on the China-U.S. joint communique, they opposed a statement in the communique to the effect that the United States recognises that the Government of the People's Republic of China is the sole legal government of China, and Taiwan is part of China.

At both meetings, they made particularly strenuous efforts to defend the "Taiwan Relations Act," which interferes in China's internal affairs. They insisted on regarding Taiwan as a political entity and advocated arms sales to Taiwan. While charging that the joint communique "disregards" the "Taiwan Relations Act," they threatened to work out a congressional resolution to oppose it.

It was reported that these rightist elements are planning to force an explanation upon the Congress that the China-U.S. joint communique is subordinate to the "Taiwan Relations Act."

By so doing, they are trying to prevent the U.S. Government from honoring the communique and to put a halt to the process of improvement of the Sino-U.S. relations.

These anti-China elements insist that the United States must not "kowtow" to China. They demand a guarantee by the U.S. Government of the "security' of Taiwan, which is China's territory, to impede China's cause of reunification.

They also criticize China's policy against hegemonism.

Morever, they have gone so far as to oppose the recognition of China and the development of the Sino-U.S. relations while attempting to renew their past dream of controlling Taiwan.

All this explains why some people have said these anti-China elements have acted like the ghost of John Foster Dulles.

However, these rightist elements have found little support. The two meetings were sparsely attended in spite of advertisements carried in mass media weeks before.

The lectures given by the American Conservative Union had an audience of only about 60, and more than half of them quit the meeting halfway.

The Senate sub-committee meeting looked even more miserable. Sitting on the rostrum was the chairman alone as other members of the sub-committee were absent. The meeting was attended by only 20 people including those from Taiwan.

Before the sub-committee meeting, the State Department wrote a letter to John East, chairman of the sub-committee, saying that the China-U.S. joint communique is merely a policy statement of the president and that "the promise made by the U.S. Government over arms sale to Taiwan is not an executive agreement and it creates no binding rights or obligations under international law."

The letter continues that the implementation of the China-U.S. joint communique will be kept within the bounds of the "Taiwan Relations Act."

The spirit of the letter obviously runs counter to that of the China-U.S. joint communique. It prompts people to watch what further moves the U.S. Government is going to take.

HUANG HUA SPEAKS ON PRC-U.S. RELATIONS

OW071236 Beijing XINHUA in English 1206 GMT 7 Oct 82

[Text] New York, October 6 (XINHUA) -- Chinese State Councillor and Foreign Minister Huang Hua said here today: "We look forward to working together with our American friends for the removal of obstacles and for the continued development of our bilateral relations."

Speaking at a dinner in his honour hosted by the U.S. Council on Foreign Relations, Huang Hua stated that "as we look to the next decade, we see great possibility of a further development of Sino-U.S. relations. In my view, there are at least four favourable conditions:

"1. The joint communique on the establishment of diplomatic relations on January 1, 1979, issued by our two governments has laid down the principles guiding the relations between the two countries. Provided that these principles are followed in earnest, continued development of Sino-U.S. relations will be ensured.

"2. China and the United States have different social systems, but they have many things in common under the present international situation. Further development of Sino-U.S. relations is in the fundamental interests of our two peoples and is of great importance to the maintenance of world peace and stability.

"3. Although China and the United States have different cultures, histories and traditions and are at different levels of economic development, it is entirely possible for us to make up each other's deficiencies and help supply each other's needs on the basis of equality and mutual benefit. There is a great potentiality for exchanges between our two countries in the economic, trade, scientific-technological, cultural and educational and other fields.

"4. In the United States there are but a handful of Taiwan lobbyists who stick to their position of hostility to China. It is the common desire of our two great peoples to see sustained and steady development of our bilateral relations."

He said: "There is no difficulty from the Chinese side in the further development of

Sino-U.S. relations. However, I regret to say that the development of our bilateral relations is not free from obstacles."

Huang Hua pointed out that Sino-U.S. relations were once brought to a dangerous point because the U.S. Government persisted in selling arms to Taiwan. Through negotiations lasting for almost a year, the two governments issued a joint communique on August 17, 1982. This communique laid down the principles and concrete measures for solving the question of U.S. arms sales to Taiwan. We hope the relevant provisions will be implemented and the commitments fulfilled in earnest so that this issue can be thoroughly settled at an early date.

He said: "The question of Taiwan was all along a key issue obstructing the normalization of Sino-U.S. relations. In the Sino-U.S. joint communique on the establishment of diplomatic relations, the United States recognizes the Government of the People's Republic of China as the sole legal government of China and acknowledges China's position that there is but one China and that Taiwan is part of China. Accordingly, the question of Taiwan should have been settled. However, soon after the establishment of diplomatic relations between the two countries, the United States passed the 'Taiwan Relations Act', which in essence continues to treat Taiwan as an independent political entity. Many of the provisions of this act constitute an encroachment upon China's sovereignty and interference in China's internal affairs.

In this respect, the so-called security provisions go even farther than the defunct U.S.-Taiwan 'mutual defence treaty.' In passing this act, the U.S. Government has gone back on its own solemn pledge and seriously violated the basic principles of the joint communique on the establishment of diplomatic relations. This act has been a dark cloud hanging over the relations between our two countries and a serious obstacle to the development of Sino-U.S. relations."

He said: "History has proved and will continue to prove that the Chinese nation has great vitality and cohesiveness. Its fervent aspiration for reunification has become a strong historical trend which no one can resist. I wish to point out in particular that the return of Taiwan to the embrace of the motherland is not only the common aspiration of one billion Chinese people, but will also be conducive to peace and stability in Asia and the world at large. Our government has on several occasions indicated that it will strive for the reunification of the motherland by peaceful means and it has time and again made major efforts towards this end.

"At the same time, our government has repeatedly stated that it will never make any commitment to any foreign country that it will not use force with regard to Taiwan. For it is entirely China's internal affair as to how Taiwan should be reunited with the motherland. It brooks no foreign interference. This is our unswerving stand," he added.

He said that there are still some people in the United States today who deliberately cover up or distort historical facts. They disregard the basic norms of international relations universally acknowledged in the 20th century. These people still cherish the fond dream of creating "two Chinas" or "one China, one Taiwan", and stubbornly regard Taiwan as the U.S. "unsinkable aircraft carrier" in Asia. Hostile to the development of Sino-U.S. relationship, they try to undermine it. Running counter to the course of history, they are playing a very dangerous game. If U.S. policy is to be swayed by such people, the political basis of Sino-U.S. relations would be completely undermined and what our two peoples have achieved in furthering our bilateral relations would go down the drain. Therefore, far-sighted and responsible persons must keep on guard against this possibility and step forward boldly to stay their hands.

He said: "In our bilateral exchanges, there are also some other problems and obstacles. I once said that the U.S. authorities had made many nice remarks about developing our bilateral relations. Yet what has happened can be described by a Chinese saying, 'loud thunder, but little rain'. Discrimination against China has been intensified in the trade relations and in scientific and educational exchanges between the two countries. While Sino-U.S. trade has grown from zero to nearly 6 billion U.S. dollars annually in the past ten years, China has always had a big deficit. China ought to have been treated fairly. The U.S. also continues to increase discriminatory restrictions on the export of high technology and sophisticated equipment to China. In view of the recent developments, one cannot help asking: Does the U.S. Government regard China as a friend or an adversary? If Sino-U.S. relations are to develop, it is imperative to proceed from the over-all interests of these relations and stop making insincere statements and taking embarassing actions. In their endeavour to modernize their country, the Chinese people continue to follow firmly the policy of opening to the outside world. However, our basic principles are still independence and self-reliance. Even if the discriminatory or hostile restrictions continue to be imposed on us, progress in our four modernization efforts will not cease. We are full of confidence."

The Chinese foreign minister said: "China adheres to an independent foreign policy and will never attach itself to any big power or bloc, never yield to pressure from any big power and still less will it swallow the bitter pill of infringement on its independence and sovereignty. We are willing to establish normal diplomatic relations with all other countries on the basis of the five principles of peaceful coexistence. We have consistently upheld this position of principle in our approach to relations between states. We neither play the U.S. card nor the Soviet card. At the same time, we will never permit others to take China as a card. The Chinese mean what they say and they are serious in their statements."

"The Chinese Government highly cherishes Sino-U.S. relations and hopes that they will continue to develop and not stand still, and still less move backward. I believe that far-sighted U.S. statesmen will also fully recognize the great significance of developing Sino-U.S. relations and take a positive approach," Huang Hua added.

I. 12 Oct 82 PRC INTERNATIONAL AFFAIRS B 1
UNITED STATES

REACTION TO REAGAN STATEMENT ON ARMS SALES

XINHUA Report

OW081940 Beijing XINHUA in English 1923 GMT 8 Oct 82

["U.S. President Makes Statement in Violation of Sino-U.S. Joint Communique" -- XINHUA headline]

[Text] Washington, October 7 (XINHUA) -- U.S. President Ronald Reagan violated the Sino-U.S. joint communique in a statement yesterday by making China's peaceful reunification a prerequisite for an end to the sales of U.S. arms to Taiwan.

He was answering questions by Republican candidates at the White House. While expressing U.S. willingness "to sincerely and honestly do our best to improve the relations with the People's Republic of China on the mainland," Reagan stressed that "there has been no reversal" in his policy toward Taiwan and that Taiwan will "get everything they need for their own self-defense."

Insisting on the "Taiwan Relations Act", Reagan arbitrarily linked U.S. arms sales to how China will achieve its reunification, an entirely internal affair of China.

He said: "If the People's Republic keeps their word that... they would try to resolve their differences (with Taiwan) peacefully and arrive at a peaceful reunification... then there would be no longer any need for us to provide defense weapons and there would be a decline and an end at that time." Reagan's statement was an obvious violation of the Sino-U.S. joint communique.

Since the issuance of the communique on August 17, some U.S. Government officials have on many occasions made statements misrepresenting its spirit and letter. It is obvious that these statements are contrary to the wishes of the Chinese and American peoples for the further development of China-U.S. relations on the basis of strict implementation of the joint communique.

AFP Report

OW090418 Hong Kong AFP in English 0346 GMT 9 Oct 82

[Excerpts] Beijing, Oct. 9 (AFP) -- China today for the first time accused U.S. President Ronald Reagan of violating the August Sino-American communique that included a U.S. pledge to limit military aid to Taiwan.

The Chinese Foreign Ministry reacted to Mr Reagan's statements, saying: "U.S. arms sales to Taiwan and how China is to achieve Taiwan's return to the motherland are two questions entirely different in nature. Any remarks about a linkage between the two constitute an interference in our internal affairs," the ministry said [words indistinct] specifically mentioning the U.S. chief executive.

FBIS 13

XINHUA: RENMIN RIBAO RAPS REAGAN'S ARMS SALES CONDITIONS

OW100737 BEIJING XINHUA IN ENGLISH 0719 GMT 10 OCT 82

(TEXT) BEIJING, OCTOBER 10 (XINHUA) -- U.S. PRESIDENT REAGAN'S STATEMENT WHICH ATTACHED A PREREQUISITE TO THE IMPLEMENTATION OF THE CHINA-U.S. JOINT COMMUNIQUE IS ABSOLUTELY UNACCEPTABLE TO THE CHINESE PEOPLE, SAYS THE PEOPLE'S DAILY IN A COMMENTARY TODAY.

IN A RECENT SPEECH MADE AT THE WHITE HOUSE, REAGAN MADE CHINA'S "PEACEFUL SOLUTION" OF THE TAIWAN PROBLEM A PREREQUISITE FOR AN END TO THE U.S. ARMS SALES TO TAIWAN. HE SAID THE U.S. GOVERNMENT WOULD ADHERE TO THE "TAIWAN RELATIONS ACT", THOUGH HE PLEDGED THAT HIS GOVERNMENT WILL "SINCERELY AND HONESTLY DO OUR BEST" TO IMPROVE RELATIONS WITH THE PEOPLE'S REPUBLIC OF CHINA.

THE COMMENTARY SAYS REAGAN'S STATEMENT IS DIAMETRICALLY CONTRADICTORY TO THE CHINA-U.S. JOINT COMMUNIQUE AS WELL AS TO HIS REMARKS ABOUT "SINCERITY" TO IMPROVE RELATIONS WITH CHINA.

THE COMMENTARY SAYS THE JOINT COMMUNIQUE ISSUED ON AUGUST 17 LAID DOWN THE PRINCIPLES BY WHICH THE U.S. ARMS SALES ISSUE SHOULD BE SOLVED, STEP BY STEP TILL IT IS THOROUGHLY SETTLED IN THE END. THAT MEANS, U.S. ARMS SALES TO TAIWAN SHOULD BE GRADUALLY REDUCED, AND, OVER A PERIOD OF TIME, FINALLY STOPPED. NO PREREQUISITE SHOULD OR COULD BE ATTACHED TO THIS.

THE COMMENTARY REAFFIRMS THAT TAIWAN IS A PROVINCE OF CHINA, AND U.S. ARMS SALES TO TAIWAN CONSTITUTES AN INFRINGEMENT ON CHINA'S SOVEREIGNTY AND INTERFERENCE IN ITS INTERNAL AFFAIRS, WHICH SHOULD COME TO AN END AS EARLY AS POSSIBLE. AS TO HOW CHINA WILL SOLVE THE TAIWAN PROBLEM AND ACHIEVE REUNIFICATION, IT IS CHINA'S INTERNAL AFFAIR WHICH ALLOWS NO INTERFERENCE FROM ANY FOREIGN COUNTRY. IN THE CHINA-U.S. JOINT COMMUNIQUE BOTH SIDES REAFFIRM RESPECT FOR EACH OTHER'S SOVEREIGNTY AND TERRITORIAL INTEGRITY AND NON-INTERFERENCE IN EACH OTHER'S INTERNAL AFFAIRS AS THE FUNDAMENTAL PRINCIPLES GUILDING RELATIONS BETWEEN THE TWO COUNTRIES. THIS CERTAINLY INCLUDES THE ISSUE OF U.S. ARMS SALES TO TAIWAN, THE COMMENTARY POINTS OUT.

HOWEVER, THE COMMENTARY NOTES, ONLY NEARLY TWO MONTHS AFTER THE JOINT COMMUNIQUE WAS ISSUED, THE U.S. LEADER CAME OUT TO SAY THAT THE U.S. WOULD REDUCE, AND STOP ITS ARMS SALES TO TAIWAN ONLY IF CHINA "KEEPS ITS WORD" ON "A PEACEFUL REUNIFICATION". THIS CANNOT BUT MAKE ONE DOUBT THE U.S. GOVERNMENT'S SINCERITY IN IMPLEMENTING THE COMMUNIQUE AND PROMOTING SINO-AMERICAN RELATIONS ON THIS BASIS.

THERE HAVE ALWAYS BEEN PEOPLE IN THE UNITED STATES WHO ARE RELUCTANT TO GIVE UP THE POLICY OF "TWO CHINAS" OR "ONE CHINA, ONE TAIWAN", THE COMMENTARY CONTINUES. THEY LIVE IN THE 1980'S, BUT STILL CLING TO THE DULLES DOCTRINE OF THE 50S. THEY CONTINUE TO REGARD TAIWAN AS AN "UNSINKABLE AIRCRAFT CARRIER" AND PAY NO REGARD TO CHINA'S SOVEREIGNTY.

THOSE PEOPLE, THE COMMENTARY SAYS, "FIRST WENT ALL OUT TO BLOCK AN AGREEMENT BETWEEN THE TWO COUNTRIES AND NOW THEY ARE TRYING TO OBSTRUCT THE IMPLEMENTATION OF IT."

IT IS CHINA'S HOPE THAT THE U.S. GOVERNMENT WOULD CHERISH ITS RELATIONS WITH CHINA AND KEEP ITS OWN FAITH BY STRICTLY ABIDING BY ITS COMMITMENTS STATED IN THE COMMUNIQUE, THE COMMENTARY SAYS. ONLY BY SO DOING, COULD THE OBSTACLE BY OVERCOME AND THE SINO-AMERICAN RELATIONS BE FURTHER DEVELOPED IN ACCORDANCE WITH THE DESIRE OF THE TWO PEOPLES, IT CONCLUDES.

RENMIN RIBAO 10 Oct Article

HK100742 Beijing RENMIN RIBAO in Chinese 10 Oct 82 p 6

["Short" commentary: "There Can Be No Preconditions for Implementing the Sino-U.S. Joint Communique"]

[Text] U.S. President Reagan stated when answering questions on Taiwan at a recent White House gathering that the United States would "genuinely and sincerely exert its utmost efforts" to improve relations with the PRC. However, he also stressed that the U.S. Government would continue to implement the "Taiwan Relations Act," and also announced: If the PRC keeps its pledged word on "striving . - a peaceful solution" of its differences with Taiwan and "arrives at a peaceful reunification," there will be a "decline and an end" to U.S. arms sales to Taiwan. Reagan has completely violated the spirit of the joint communique issued by the Chinese and U.S. Governments on 17 August by treating a peaceful solution of the Taiwan problem by China as a precondition for halting U.S.

arms sales to Taiwan, and this also conflicts with President Reagan's words about genuinely and sincerely improving relations with the PRC. The Chinese people will absolutely not agree with views like these.

The joint communique of the Chinese and U.S. Governments stipulated the principle of a phased and eventually complete solution to the issue of U.S. arms sales to Taiwan, that is, the United States must gradually reduce its arms sales to Taiwan and completely halt them after a time. There cannot and should not be any preconditions on this point. Taiwan is a province of China, and U.S. arms sales to Taiwan infringe on China's sovereignty and constitute interference in China's internal affairs and should be terminated as soon as possible.

As for the manner of solving the problem of reunifying Taiwan with the motherland -- that is China's internal affair, and no foreign country may interfere in it. The Sino-U.S. joint communique reiterated that mutual respect for sovereignty and territorial integrity and mutual noninterference in internal affairs constituted the guideline for all aspects of relations between the two countries; and this naturally includes the issue of U.S. arms sales to Taiwan. The U.S. side solemnly stated that it had no intention of violating China's sovereignty and territorial integrity, of interfering in China's internal affairs, and of pursuing a policy of "two Chinas" or "one China and one Taiwan." Thus, from the day the communique was published, the United States should have carried out its undertaking to gradually reduce its arms sales to Taiwan and eventually completely solve this problem. Now, when the communique has been issued less than 2 months, U.S. Government leaders actually state that they want China to keep its "word" on "solving by peaceful means" the Taiwan problem before the United States will reduce and finally terminate its arms sales to Taiwan; hence, people cannot but doubt the U.S. Government's sincerity in implementing the communique and improving and developing Sino-U.S. relations on that basis.

There are now, as always, those forces in the United States who are unreconciled to abandoning the policy of "two Chinas" and "one China and one Taiwan." Though living in the 1980's, they stubbornly cling to the "Dullesism" of the 1950's, continue to regard Taiwan as a U.S. "unsinkable aircraft carrier," and pay no heed whatsoever to China's sovereignty. From the very beginning they desperately opposed the agreement reached by China and the United States on the communique and, after its publication, they hampered the implementation of the agreement.

We hope that the U.S. Government will regard relations between the two countries and its own good faith as the most important things, clear away interference, abide by the agreement, and tangibly implement the relevant provisions and undertakings contained in the communique, so that Sino-U.S. relations will be able to overcome obstacles and continue to develop in accordance with the desire of the people of both countries.

KYODO: DENG XIAOPING RAPS U.S. TAIWAN POLICY

OW241020 Tokyo KYODO in English 1010 GMT 24 Oct 82

[Text] Beijing, Oct 24 KYODO -- Deng Xiaoping, China's strongman now head of the Chinese Communist Party Central Advisory Commission, Sunday expressed his strong dissatisfaction with the United States Government's policy toward Taiwan, including the sale of arms.

He made this remark at a one-hour meeting with Yoshikatsu Takeiri, chairman of the Komeito Party, now visiting Beijing at the invitation of the Chinese Government and party.

Deng stressed that serious troubles had developed in bilateral relations one after another since U.S. President Ronald Reagan assumed power at the outset of 1980, although it was China's persistent policy to develop further Beijing-Washington relations.

Deng revealed his displeasure with President Reagan's policy, saying U.S. diplomacy seemed to change drastically whenever a change in the U.S. leadership took place. There were too many cheap tricks played by the Reagan administration, he was quoted as saying.

Informed sources said Deng's remark, which was given in response to the questions raised by Takeiri, was rather unusual one in denouncing the U.S. Government for its policy toward China. Deng insisted the Reagan administration has adopted the highest amount of arm sales by the Carter administration to Taiwan as the standard for arm sales to that island.

III. 27 Oct 82 USSR INTERNATIONAL AFFAIRS B 1
CHINA

U.S. POLICY ON TAIWAN VIOLATES PRC SOVEREIGNTY

OW270257 Moscow in Mandarin to China 0700 GMT 25 Oct 82

[Alekseyev commentary]

[Excerpts] Listeners: On 25 October 1979 the legal rights of the People's Republic of China were restored at the 26th UN General Assembly. Soviet Sinologist Alekseyev has written a commentary on the event, entitled "In Defiance of U.S. Imperialists' Boycott." He writes:

The United States and other imperialist countries persistently obstructed the People's Republic of China from being admitted to the United Nations for 22 years. In those years, the Soviet Union and other socialist countries tenaciously fought for the restoration of the PRC's legal rights in this world organization.

When the United States, Britain and other capitalist countries concocted the notorious two Chinas policy, which later became the one-China, one-Taiwan policy, to obstruct the restoration of China's representative in the United Nations, the Soviet Union and other socialist countries refuted the absurd concept. The Soviet delegation issued a statement at the 11th UN General Assembly on 15 November 1956. In the world, there have never been two Chinas. There is only one China -- that is, the People's Republic of China.

The Soviet Union still keeps this position -- there is only one China , the People's Republic of China, and Taiwan is one of its provinces. Only the PRC Government has exclusive rights to settled all the questions concerning Taiwan's return to the motherland.

U.S. imperialists still pursue a two Chinas policy in dealing with the PRC. In April 1979, only 3 months after the establishment of diplomatic relations between the United States and the PRC, the U.S. Congress adopted Act No 2479 which affirms trade, cultural and other relations between the United States and Taiwan. The act contains stipulations on the U.S. commitment to supply arms to Taiwan and even to defend Taiwan in case of armed invasion. Therefore, the United States apparently ackonwledges only in name that Taiwan is part of China, while it continues to treat Taiwan as an independent state. Nothing has changed in the U.S. Embassy in Taipei except its signboard, which now reads the American Institute in Taiwan. American servicemen have not withdrawn from Taiwan and the U.S. fleet still patrols the Taiwan strait. The United States continues arms supplies to Taiwan and its political and economic relations with Taiwan continue to develop.

Not long ago, U.S. President Reagan said that the United States would never change its Taiwan policy. In other words, U.S. President Reagan has confirmed that the United States will not change its two Chinas policy, which disregards the Chinese people's national interests and grossly violates the PRC's sovereignty. Japan and other imperialist countries follow U.S. policy and hold the same position on the Taiwan issue. At present, Western countries have more than 10 so-called unofficial representative's offices in Taiwan.

Dr. Lyushun Shen
Visiting Fellow
Foreign Policy Research Institute, Philadelphia, PA

A BRIEF ANALYSIS OF U. S. - CHINA JOINT COMMUNIQUE OF AUGUST 17, 1982

Para. 1

Reaffirmation of the Joint Communique on the Establishment of Diplomatic Relations here seems to be the result of a U. S. demand. Given the fact that Paras. 3, 4 and 5 strongly connote U. S. recognition of Peking's sovereignty over Taiwan (see below), a reaffirmation of this sort would enable Washington to claim that there has been no change in U. S. long-standing position on the issue of Taiwan's sovereignty.

Para. 2

This paragraph amounts to giving the PRC the right to interfere in U. S. arms sales to Taiwan on the basis of mistaken historical facts. The question of continued U. S. arms sales to Taiwan was not mentioned in any document, bilateral or unilateral, relating to U. S. -PRC normalization. The two sides then only made their respective stands known through news conferences. On the PRC side, this was done by then Premier Hua Guofeng when he said in the conference:

> "During the negotiations the U.S. side mentioned that after normalization it would continue to sell limited amount of arms to Taiwan for defensive purposes. We made it clear that we absolutely would not agree to this. In all discussions the Chinese side repeatedly made clear its position on this question. We held that after the normalization continued sales of arms to Taiwan by the United States would not conform to the principles of the normalization, would be detrimental to the peaceful liberation of Taiwan and would exercise an unfavorable influence on the peace and stability of the Asia-Pacific region. So our two sides had differences on this point. Nevertheless, we reached an agreement on the joint communique." (1)

It should be noted here that Mr. Hua did not state that the Chinese side "would raise the issue again following normalization" as the new communique claimed. The Peking regime did not raise the issue either when the Carter administration announced the sale of $280 million worth of arms to Taiwan in January 1980. It deserves further notice that in Mr. Hua's arguments against the sale, he did not maintain that the sale would constitute a violation of the PRC's sovereignty and interference in China's internal affairs as Peking now claims. In sum, Para. 2 of the new joint communique indicates complete and unnecessary U.S. concession to the PRC to entitle the latter to a say in the question of U.S. arms sales to Taiwan.

Para. 3

This paragraph reaffirms the principle of "respect for each other's sovereignty and territorial integrity and non-interference in each other's internal affairs" as something which would "continue to govern all respects of their relations." However, if read together with the statement in Para. 4, "the Chinese government reiterates that the question of Taiwan is China's internal affair;" and that in Para. 5, "(the U.S.) reiterates that it has no intention of infringing on Chinese sovereignty and territorial integrity, or interfering in China's internal affairs, or pursuing a policy of 'two Chinas' or 'one China, one Taiwan'," all these words clearly convey the impression of U.S. recognition of Peking's sovereignty over Taiwan and make the reaffirmation in Para. 1 meaningless. The statement in Para. 5 is a standard PRC rhetoric which has never been accepted by any U.S. administration before.

---

(1) Peking Review (official PRC publication), December 22, 1978, pp. 10-11.

Para. 4

Neither Peking's Message of 1979 nor the Nine-Point Proposal of 1981 has renounced the use of force as a possible means for the solution of the Taiwan issue. This paragraph does not make a commitment either. As a matter of fact, even after the 1979 Message was announced, Peking on numerous official occasions has still indicated that it would not rule out the possibility of using force against Taiwan (see the attached list of Peking's statements in this regard). The U.S. side holds that the Chinese characters for the "fundamental policy" carry the connotation of "unchanging and long-term" and hence maintains that it has "no reason to think that the Chinese will change this fundamental policy." (2) However, anyone with a fair knowledge of the Chinese language can tell that these Chinese characters, "Da-zheng-fang-zhen," could only mean "guideline for grand political issues" if literally translated. It is naive that such words of Peking can be taken as the rationale for the reduction and limitation of future U.S. arms sales to Taiwan under the reasoning that Taiwan's defense needs would decrease.

Para. 5

In addition to the aforementioned statement implying U.S. recognition of Peking's sovereignty over Taiwan, the wording that Washington "understands and appreciates" Peking's Message of 1979 and the Nine-Point Proposal of 1981 strongly suggests a U.S. endorsement of the PRC's stand in the Chinese civil conflict. This would further undercut Taiwan's efforts against a Communist take-over. The last sentence in this Paragraph apparently refers to a "situation" emerging from Peking's so-called "fundamental policy", which paves the way for the reduction and limitation of future U.S. arms sales to Taiwan as indicated in Para. 6.

Para. 6

This highly controversial paragraph signifies an almost total U.S.

---

(2) Assistant Secretary John Holdridge's testimony before the Senate, August 17, 1982. See New York Times, August 18, 1982, p. A12, and p. 8 of his prepared statement.

give-in to the PRC ground on the issue. It also constitutes a gross violation of the Taiwan Relations Act. Even if the PRC's peaceful policy could be taken seriously and Taiwan's defense needs consequentially allowed to decrease, it should be noted that Sec. 3 (b) of the Taiwan Relations Act provides that "the President and the Congress shall determine the nature and quantity of such defense articles and services (to be sold to Taiwan) based solely upon their judgment of the needs of Taiwan ---------" It is obvious that an executive branch's commitment to a foreign government as to the reduction, limitation, and termination of such sales cannot be legally justified within the framework of this provision. The more questionable seems to be the phrase "final resolution" in this paragraph. The PRC's interpretation in this regard is the eventually total termination of such sales (see PRC Foreign Ministry's statement concerning the Joint Communique) while the U.S. side remains ambiguous on this point. However, the subsequent statement ("the United States acknowledges China's consistent position regarding the thorough settlement of this issue") seems to have made Peking's interpretation the only authentic one.

Para. 7

This seems the only paragraph wherein Peking made some concessions. The phraseology "the two governments will make every effort ----------" also creates an "obligation" to Peking, i.e., to continue its peaceful policy toward Taiwan. The "obligation" created by this statement for the U.S. side seems to be the implementation of Para. 6. However, the paragraph fails to mention that these two obligations are mutual and correlated. Again, this is a victory for the PRC since it has been strongly against any "linkage" between the issue of U.S. arms sales to Taiwan and its own policy toward the Island.

Para. 8

This paragraph seems aimed at forestalling the downgrading of relations caused by future U.S. arms sales to Taiwan, presumably a U.S. preference.

Para. 9

The last sentence seems a requirement of U.S. prior consultation with the PRC on any future arms sales to Taiwan.

In the joint communique issued by the United States and the People's Republic of China on August 17, 1982, the Peking government stated that "....(t)he Message to Compatriots in Taiwan issued by China on January 1, 1979 promugated a fundamental policy of striving for peaceful reunification of the Motherland." Such a statement has been viewed by the U.S. government as Mainland China's commitment to an "Unchanging and long-term" policy of peaceful approach to the Taiwan issue. (See New York Times, August 18, 1982, p. A12). Having in mind of this statement, the U.S. government agreed to put a ceiling on future arms sales to Taiwan as well as to commit itself to a phase-out of such sales as the communique indicated.

However, according to official sources of the PRC published after the "fundamental policy" of January 1, 1979 was promugated, we could find that such a policy has by no means ruled out the use of force as a possible means for Peking to solve the Taiwan issue. Please read the following (these are only a few examples, more statements of similar sort can be found in Peking's official publications from time to time):

(1) January 5, 1979 - Vice-Premier Deng Xiaoping said:

> "President Carter indicated the wish that the solution of the Taiwan question be accomplished through peaceful means.... We make clear that the solution of this question is China's internal affairs.... We cannot commit ourselves to use no other than peaceful means to achieve the reunification of the motherland. We cannot tie our hands on this matter."

Beijing Review, January 12, 1979, p. 17. (Official Chinese government publication published in six languages.)

(2) January 31, 1979 - Vice-Premier Deng Xiaoping said in an interview:

> "If we are to commit ourselves to not using armed forces at all, then that will be equivalent to the tying of our own hands (on the question of reunification of Taiwan with the mainland.)"

Beijing Review, February 16, 1979, p. 20.

(3) November 1, 1980 - Shijie Zhishi (World Knowledge) - a widely circulated magazine in China under the sponsorship of Peking's Foreign Ministry - wrote:

> "If China resorts to non-peaceful means to settle the Taiwan question, it is China's internal affairs and the U.S. has no right to intervene."

Shijie Zhishi, 1980, No. 21, p. 14.

(4) January 12, 1981 - The official Beijing Review's answer to readers' enquiries.

> "If we.... resort to non-peaceful means to solve the (Taiwan) issue, that is entirely China's internal affair which the United States has no right to meddle in, let alone claim that it poses 'a threat to the peace and security of the Western Pacific area.'"

Beijing Review, January 12, 1981, p. 9.

(5) February 19, 1981 - Professor Wang Tieya of Beijing (Peking) University and an adviser to the Chinese Foreign Ministry said:

> "If the Taiwan authorities insist on maintaining a stubborn attitude against communism and refusing the offer of peace, and if the United States continues to build up the military capability of Taiwan, we have no alternative but to resort to nonpeaceful means to solve the Taiwan problem. This is also China's internal affairs, and the United States has no right to interpose."

Foreign Broadcasting Information Service, People's Republic of China, February 24, 1981, p. U3.

(6) July 4, 1981 - The People's Daily attacked the Taiwan Relations Act as amounting to obstructing Taiwan's unification with the mainland and "as a result, China may be forced to resort to nonpeaceful methods to settle the Taiwan problem."

Renmin Ribao (People's Daily, the Chinese Communist Party organ), July 4, 1981.

It should be noted that Peking has never agreed to renounce the use of force against Taiwan!!

DESIRABLE REMEDIES

The Question of Arms Sales

The U.S. government should clearly spell out, in a public document of official nature, that any limitation on the future arms sales to Taiwan would be premised on a continuation of the PRC's peaceful policy toward the Island. The "peaceful policy" shall be gauged by not only the policy statements of the PRC, but also Peking's military preparedness for a possible invasion of Taiwan should that policy change overnight. In short, the U.S. government should make it clear that "Taiwan's defense needs" are largely contingent upon the consideration for maintaining continuous military balance in the Taiwan Straits, not merely the words of the PRC.

The U.S. government should also clarify the word "final resolution" in Para. 6. A preferable interpretation is: while acknowledging Peking's position may be different, the U.S. side nevertheless holds that a "final resolution" should include the peaceful resolution of the Taiwan issue as a whole.

The word "level" in Para. 6 should be flexibly construed to take technological improvement and inflationary factor of the time into consideration.

The Question of Taiwan's Sovereignty

The U.S. government should reaffirm a former clarification made for the U.S.-PRC Communique on the Establishment of Diplomatic Relations. That is, in saying that it "acknowledges the Chinese position that there is but one China and Taiwan is part of China," the United States did not recognize Peking's sovereignty over Taiwan, since the word "Chinese position" referred to the position held by the Chinese on both sides of the Taiwan Straits.

The Question of Peking's Peace Overtures

The U.S. government should publicly clarify that what it "understands and appreciates" in Para. 5 is only the "peaceful nature" in Peking's Message to Taiwan of 1979 and the Nine-Point Proposal of 1981; such an expression should not be viewed as U.S. endorsement of the contents of these two documents.

An Analysis of Certain Problems of the U.S.-China Joint Communique on U.S. Arm Sales to Taiwan (August 17, 1982) and the Need to Clarify the U.S. Position on Certain Vital Issues

Hungdah Chiu*
Professor of Law
University of Maryland
School of Law
Baltimore, Maryland 21201

1. Discrepancies between the Chinese and the English Texts

There are two important discrepancies in the English and Chinese texts of the Communique, as indicated in the following:

English text	Chinese text if translated into English	Explanation
(Para. 1) it [the U.S.] acknowledged the Chinese position that there is but one China and Taiwan is part of China.	it [the U.S.] recognized the Chinese position that there is but one China and Taiwan is part of China. (See Appendix 3.)	The Chinese translated the word "acknowledge" into Chengren (Cheng-jen in Wade-Giles) which, if translated into English, would mean "recognize."

Note: In the Joint Communique on Establishing Diplomatic Relations issued on January 1, 1979, the Chinese side resorted to this same translation. This is the second time the U.S. State Department failed to challenge the Chinese manipulation of the translation.

(Para. 4) The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland.	The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a major policy [or guideline] of striving for peaceful reunification of the Motherland. (See Appendix 1.)	Tazheng fangzhen, according to a PRC dictionary, should be translated into "major policy."[1] Fangzhen can also be translated into "guideline."[2]

Note:

1. Hanyin cihui shouce (Handbook on Chinese-English Terms), Peijing: Foreign Language Press, 1970, p. 176.
2. Id., p. 262.

Explanation:

In the context of the Chinese language, the term "Tazheng fangzhen" (major policy) does not have the meaning of "'fundamental,' which contains the connotation of unchanging and long-term," attributed to it by Assistant Secretary of State for East Asian and Pacific Affairs John H. Holdbridge in his testimony before the Senate Foreign Relations Committee on August 18, 1982.

(Para. 6) Having in mind the foregoing statements of both sides	Considering the foregoing statements of both sides (See Appendix 4)	The Chinese translated the phrase "having in mind"[1] into Kaolu[2] (K'ao-lu in Wade-Giles), which if translated into English, would only mean "consider," thus undercutting the linkage between paragraph 6 (reduction of arms sales to Taiwan and others) and the previous paragraphs on China's peaceful intention to Taiwan.

---

* S.J.D. (Harvard) and author, co-author, or editor of the following books on China and international law and the Taiwan question: The People's Republic of China and the Law of Treaties (Harvard University Press, 1972), (Co-editor) Law in Chinese Foreign Policy (Oceana, 1972) China and the Taiwan Question: Documents and Analysis (Praeger 1973), (Co-author) People's China and International Law: A Documentary Study (2 vols., Princeton University Press 1974, awarded a certificate of merit by the American Society of International Law in 1976), China and the Taiwan Issue (Praeger, 1979) and Agreements of the People's Republic of China, A Calendar of Events, 1966-1980 (Praeger, 1981).

Note:

1. See A New English-Chinese Dictionary, Hong Kong Branch of (Peking) Joint Publishing Co., 1975, p. 816 where it indicates that "having something in mind" should be translated into Jidei moushi (Chi-tei mou-shih in Wade-Giles), i.e., remember a certain thing.
2. Kaolu should be translated into consider, see The Pinyin Chinese-English Dictionary, The Commercial Press, Beijing (Peking) and Hong Kong, 1979, p. 385.

Explanation:

Assistant Secretary of State Holdridge attached great importance to the sentence "Having in mind . . . . " in his testimony before Senate Foreign Relations Committee's hearing on August 17, 1982. He said: "Our future actions concerning arms sales to Taiwan are premised on a continuation of China's peaceful policy toward a resolution of its differences with Taiwan. This is indicated by the words at the beginnong of Para. 6 that "Having in mind the foregoing statements by both sides, the United States Government states . . . " The Chinese translation undercuts the linkage between paragraph 6 and paragraph 4 (Chinese peaceful intention toward Taiwan) by changing the phrase "having in mind" into "considering."

2. Discrepancies between the U.S. and the Chinese Interpretation of the Communique

The Chinese Government and officials' statements issued on August 17, 1982 or later contradict some points of the U.S. interpretation of the Communique on certain vital issues pertaining to the Taiwan question, as indicated in the following:

Communique	U.S. Interpretation	Chinese Interpretation
(Para. 4) The Nine-Point proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental [major in Chinese text] policy to strive for a peaceful solution to the Taiwan question.	We attach great significance to the Chinese statement in the communique regarding China's "fundamental" policy; and it is clear from our statements that our future actions will be conducted with this peaceful policy fully in mind. (President Reagan's statement on Issuance of Communique.) (See Appendix 3.)	On this [Taiwan] issue, which is purely China's internal affair, no misinterpretation or foreign interference is permissible (Chinese statement of August 17, 1982) In an interview with CBS, Chai Zemin said: "In 1979 we issued the message to compatriots in Taiwan and then in 1981 we put forward a nine-point proposal for the peaceful settlement of the Taiwan problem. These fully demonstrate our sincerity. However, we are not to make any commitment to any country on the peaceful settlement of the Taiwan problem. We consider the Taiwan problem to be China's internal affair. It is up to us to decide how to solve this problem.[1]

[1] China Daily (Beijing), August 27, 1982, p. 1. This newspaper is an official English newspaper published by the PRC. See Appendix 2.

Communique	U.S. Interpretation	Chinese Interpretation
(Para. 6) . . . it [the U.S.] intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution.	We did not agree to set a date certain for ending arms sales to Taiwan and the statements of future U.S. arms sales policy embodied in the Communique do not provide either a time frame for reductions of U.S. arms sales or for their termination. (Holdridge testimony)	The final resolution referred to [in the Communique] certainly implies that U.S. arms sales to Taiwan must be completely terminated over a period of time. (Chinese Government Statement)

(Communique and Taiwan Relations Act)	(Communique and Taiwan Relations Act)
Regarding future U.S. arms sales to Taiwan, our policy, set forth clearly in the communique, is fully consistent with the Taiwan Relations Act. (Reagan Statement)	The "Taiwan Relations Act" seriously contravenes the principles embodied in the Joint Communique on the establishment of diplomatic relations between the two countries, and the Chinese Government has consistently been opposed to it. All interpretations designed to link the present Joint Communique to the "Taiwan Relations Act" are in violation of the spirit and substance of this communique and are thus unacceptable. (Chinese Government Statement)

3. U.S. Oral Pledges to Taiwan (Republic of China)

It was reported by Chinese Nationalist sources that on August 17, 1982, U.S. Assistant Secretary of State for East Asian and Pacific Affairs John H. Holdridge made the following oral pledges to the Representative of the Coordination Council for North American Affairs (CCNAA, the "unofficial" organ of the Republic of China in the U.S.):

1. The United States did not in the Joint Communique agree to set a date certain for ending arms sales to Taiwan. Statements of future U.S. arms sales policy embodied in the Joint Communique do not provide either a time frame for reduction of U.S. arms sales or for their termination.

2. The United States will continue to make appropriate arms sales to Taiwan based on its assessment of Taiwan's defense needs.

3. The United States attaches great importance to Peking's statement in the Joint Communique that it has a fundamental policy to seek peaceful resolution of the Taiwan problem. Future U.S. government actions concerning arms sales to Taiwan are premised on a continuation of China's peaceful policy toward a resolution of its differences with Taiwan.

4. The Reagan Administration has no reason at the present time to think that the Chinese in Peking will change this fundamental policy. If it should change, the United States would, of course, re-examine its position.

5. The U.S. position on the resolution of the Taiwan issue has consistently been that it is a matter for the Chinese themselves to work out. The sole and abiding concern of the United States is that any resolution be peaceful. "We see no mediation role for the U.S., nor will we attempt to exert pressure on Taiwan to enter into negotiation with the PRC."

6. There has been no change in the U.S. long-standing position on the issue of sovereignty over Taiwan. The Joint Communique issued today simply cited the relevant sentences in the 1979 Joint Communique on the establishment of diplomatic relations between the United States and the PRC. "We don't take any particular stand of our own with respect to it."

7. There is no truth in recent press reports that the Reagan Administration would seek to revise the Taiwan Relations Act. "We have no plans to seek any revisions."

8. The Joint Communique issued today does not require the United States to have prior consultations with Peking in the future on each arms sale case to Taiwan.

9. "We hope and expect that the Joint Communique will enhance the confidence of the people of Taiwan whose well being and prosperity continue to be of the utmost importance to the United States. From the President down, we have acted in a way which seeks to enhance the future security and prosperity of the people on Taiwan."

The above oral pledges to Taiwan were neither mentioned in Holdridge's testimony before the Senate Foreign Relations Committee on August 18, 1982, nor reported in any reputable Western publication, so their validity and value are highly questionable.

4. The Need to Take Certain Executive Actions to Clarify the U.S. Position on Certain Vital Issues.

As explained before, there are different interpretations on certain vital issues covered in the U.S.-China joint communique issued on Augsut 17, 1982. Based on U.S. experience in dealing with the PRC, it is important to clarify the U.S. position now in order to avoid future misunderstanding with the PRC. Here, I will briefly summarize a single case to show the importance of making everything crystal clear in dealing with the PRC.

Sino-American Agreed Announcement on Repatriation of Civilians, September 10, 1955.

In this agreement, the PRC "recognizes that Americans in the People's Republic of China who desire to return to the United States are entitled to do so." According to the U.S. view, as explained in a statement issued by the Department of State on December 15, 1955, "This declaration is simple, clear, and positive. It says that any United States citizen has the right to leave China . . . No distinction is made as between those in prison and those out of prison." The PRC, however, insisted that, for those Americans imprisoned in China, "only when they have completed their sentences or when China has adopted measures to release them before the completion of their sentences [could] the question of their exercising the right to return . . . arise." As a result, several Americans continued to be imprisoned in China. The last one, Daniel Kelly, was not released until January, 1979, after U.S. normalization of relations with China.

Also, in the course of implementing this agreement, when the PRC provided a name list of about 100 Americans (in and out of Chinese prison) to the United States, it immediately demanded that the U.S. provide a name list of all Chinese in the U.S. (about 200,000 at that time), despite the fact that the preparatory work did not indicate that the U.S. ever agreed to this arrangement. (See Hungdah Chiu, The People's Republic of China and the Law of Treaties, Harvard University Press, 1972, pp. 82-84 and the sources cited therein.)

In view of the above explanation, it seems desirable that appropriate measures should be taken to make the official U.S. position on the Taiwan issue as clear as that explained in the related documents issued in connection with the joint communique of August 17, 1982. With this in mind, it is suggested that an executive order should be issued to integrate the communique with the related documents and statements issued as one package in the following manner:

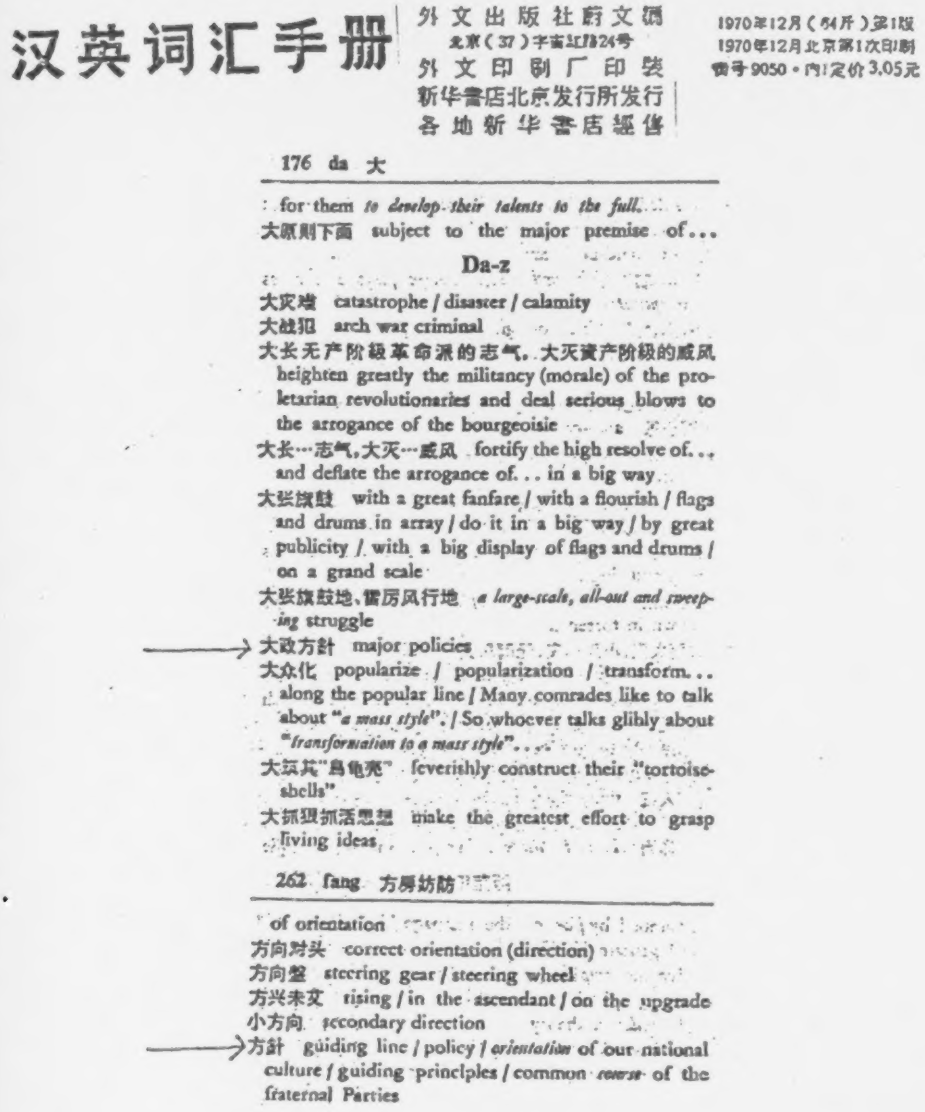
(1) The Executive Order should emphasize that the joint communique, from the U.S. point of view, should be read in conjunction with President Reagan's statement, Assistant Secretary of State Holdridge's testimony and the U.S. oral pledge (which should be put into appropriate written form) to Taiwan.

(2) Paragraph 6 of the Joint Communique stated that the United States "arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China." This policy, if carried out, will obsolete Taiwan's defense capability in 5 to 10 years as the PRC continues to modernize its military forces. Both President Reagan's statement and Assistant Secretary Holdridge's testimony did not respond to this vital issue concerning Taiwan's security. However, it was reported by Time that "Administration officials insist that this language allows more advanced weapons to be sold to Taiwan if China upgrades its own armaments." (Time, August 30, 1982, p. 21) If this is true, then it is important to include this understanding in the executive order to avoid any future misunderstandings. Moreover, according to Senator Goldwater, he was assured by responsible Administration officials that the phrase "level of those [arms] supplied in recent years" was meant to refer to the $830 million U.S. dollar value of arms supplied by U.S. to Taiwan in 1980, subject to adjustment of future inflation. In other words, the maximum amount of arms Taiwan could purchase in any year from the U.S. is not to exceed $830 million U.S. dollars in its 1980 value. This understanding is of crucial importance to Taiwan, otherwise, with the continued devaluation of U.S. dollars, in less than 5 to 10 years Taiwan would not be able to buy any meaningful amount of arms from the U.S. In view of this, this understanding should also be included in the proposed executive order.

(3) As there are important discrepancies between the Chinese text and the English text of the communique, it appears desirable to make it clear that the U.S. only adheres to the English text.

Appendix 1

HANYIN CIHUI SHOUCE (Handbook on Chinese-English Terms), Beijing: Foreign Languages Press, 1970



汉英词汇手册

外文出版社府文酒
北京（37）百万庄路24号
外文印刷厂印装
新华書店北京发行所发行
各地新华書店经售

1970年12月（64开）第1版
1970年12月北京第1次印刷
书号9050・内1定价3.05元

176 da 大

: for them *to develop their talents to the full.*

大原則下面 subject to the major premise of...

Da-z

大灾难 catastrophe / disaster / calamity

大战犯 arch war criminal

大长无产阶级革命派的志气，大灭资产阶级的威风 heighten greatly the militancy (morale) of the proletarian revolutionaries and deal serious blows to the arrogance of the bourgeoisie

大长…志气，大灭…威风 fortify the high resolve of... and deflate the arrogance of... in a big way

大张旗鼓 with a great fanfare / with a flourish / flags and drums in array / do it in a big way / by great publicity / with a big display of flags and drums / on a grand scale

大张旗鼓地、雷厉风行地 *a large-scale, all-out and sweeping* struggle

→ **大政方針** major policies

大众化 popularize / popularization / transform... along the popular line / Many comrades like to talk about "*a mass style*". / So whoever talks glibly about "*transformation to a mass style*"...

大筑其"乌龟壳" feverishly construct their "tortoise-shells"

大抓狠抓活思想 make the greatest effort to grasp living ideas

262 fang 方房坊防

of orientation

方向对头 correct orientation (direction)

方向盘 steering gear / steering wheel

方兴未艾 rising / in the ascendant / on the upgrade

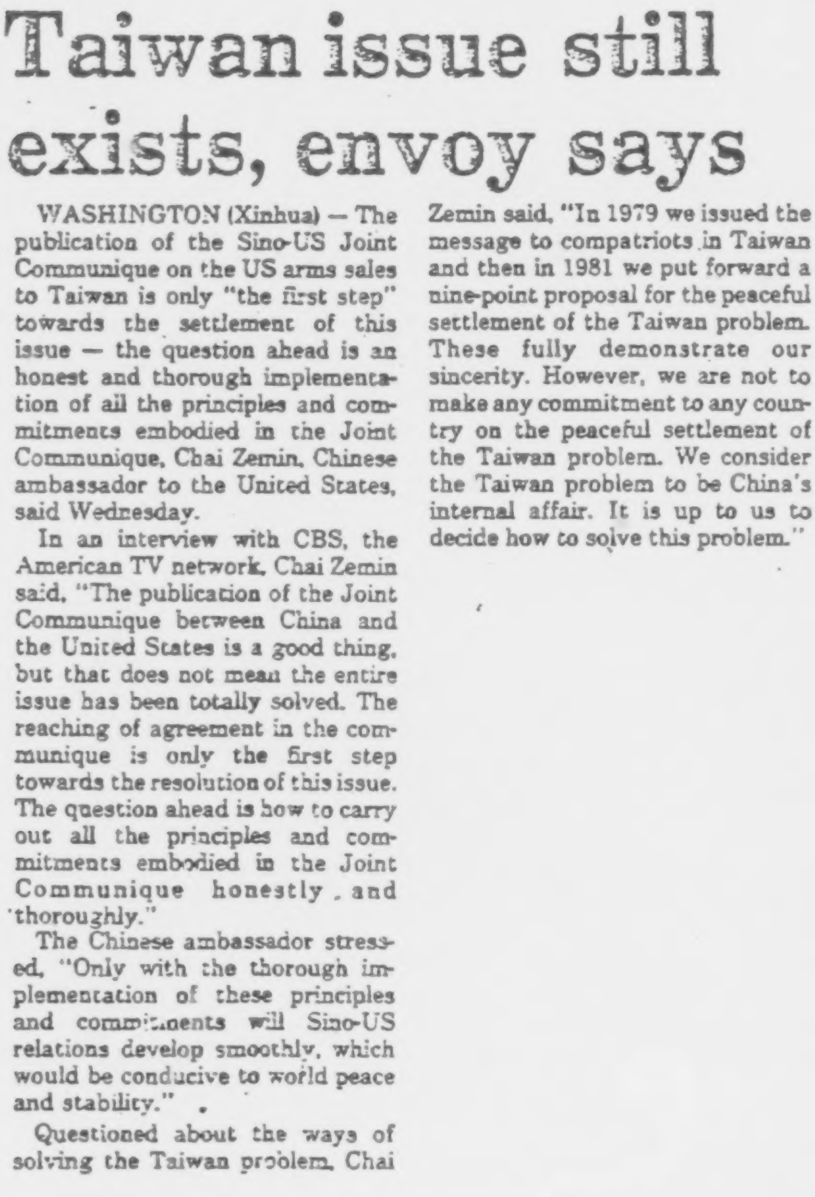
小方向 secondary direction

→ **方針** guiding line / policy / *orientation* of our national culture / guiding principles / common *course* of the fraternal Parties

Appendix 2

THE CHINA DAILY, 2, Jintai Xilu, Beijing
People's Republic of China

August 27,1982,p. 1.



Taiwan issue still exists, envoy says

WASHINGTON (Xinhua) — The publication of the Sino-US Joint Communique on the US arms sales to Taiwan is only "the first step" towards the settlement of this issue — the question ahead is an honest and thorough implementation of all the principles and commitments embodied in the Joint Communique, Chai Zemin, Chinese ambassador to the United States, said Wednesday.

In an interview with CBS, the American TV network, Chai Zemin said, "The publication of the Joint Communique between China and the United States is a good thing, but that does not mean the entire issue has been totally solved. The reaching of agreement in the communique is only the first step towards the resolution of this issue. The question ahead is how to carry out all the principles and commitments embodied in the Joint Communique honestly and thoroughly."

The Chinese ambassador stressed, "Only with the thorough implementation of these principles and commitments will Sino-US relations develop smoothly, which would be conducive to world peace and stability."

Questioned about the ways of solving the Taiwan problem, Chai Zemin said, "In 1979 we issued the message to compatriots in Taiwan and then in 1981 we put forward a nine-point proposal for the peaceful settlement of the Taiwan problem. These fully demonstrate our sincerity. However, we are not to make any commitment to any country on the peaceful settlement of the Taiwan problem. We consider the Taiwan problem to be China's internal affair. It is up to us to decide how to solve this problem."

Appendix 3

UNITED STATES-CHINA JOINT COMMUNIQUE
OF AUGUST 17, 1982

1. In the Joint Communique on the Establishment of Diplomatic Relations on January 1, 1979, issued by the Government of the United States of America and the Government of the People's Republic of China, the United States of America recognized the Government of the People's Republic of China as the sole legal government of China, and it acknowledged the Chinese position that there is but one China and Taiwan is part of China. Within that context, the two sides agreed that the people of the United States would continue to maintain cultural, commercial, and other unofficial relations with the people of Taiwan. On this basis, relations between the United States and China were normalized.

中华人民共和国和美利坚合众国联合公报
（一九八二年八月十七日）

一、在中华人民共和国政府和美利坚合众国政府发表的一九七九年一月一日建立外交关系的联合公报中，美利坚合众国承认中华人民共和国政府是中国的唯一合法政府，并承认中国的立场，即只有一个中国，台湾是中国的一部分。在此范围内，双方同意，美国人民将同台湾人民继续保持文化、商务和其他非官方关系。在此基础上，中美两国关系实现了正常化。

4. The Chinese government reiterates that the question of Taiwan is China's internal affair. The Message to Compatriots in Taiwan issued by China on January 1, 1979 promulgated a fundamental policy of striving for peaceful reunification of the Motherland. The Nine-Point Proposal put forward by China on September 30, 1981 represented a further major effort under this fundamental policy to strive for a peaceful solution to the Taiwan question.

四、中国政府重申，台湾问题是中国的内政。一九七九年一月一日中国发表的告台湾同胞书宣布了争取和平统一祖国的大政方针。一九八一年九月三十日中国提出的九点方针是按照这一大政方针争取和平解决台湾问题的进一步重大努力。

6. Having in mind the foregoing statements of both sides, the United States Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years since the establishment of diplomatic relations between the United States and China, and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution. In so stating, the United States acknowledges China's consistent position regarding the thorough settlement of this issue.

六、考虑到双方的上述声明，美国政府声明，它不寻求执行一项长期向台湾出售武器的政策，它向台湾出售的武器在性能和数量上将不超过中美建交后近几年供应的水平，它准备逐步减少它对台湾的武器出售，并经过一段时间导致最后的解决。在作这样的声明时，美国承认中国关于彻底解决这一问题的一贯立场。

(Appendix 4)

漢英詞典

The Pinyin CHINESE-ENGLISH DICTIONARY

Editor-in-chief
Professor Wu Jingrong
Beijing Foreign Languages
Institute

The Commercial Press
Beijing · Hong Kong
and
Pitman Advanced Publishing Program
San Francisco · London · Melbourne

1979

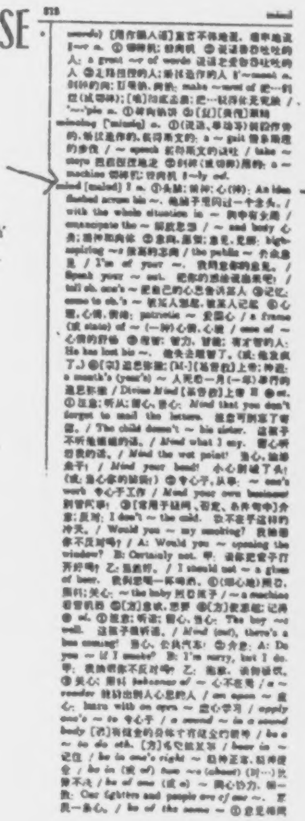
A NEW ENGLISH-CHINESE DICTIONARY

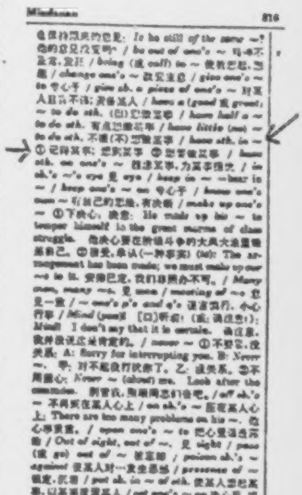
Compiled by
THE EDITING GROUP OF
A NEW ENGLISH-CHINESE DICTIONARY

JOINT PUBLISHING COMPANY
(Hongkong Branch)
HONG KONG 1975

新 英 汉 词 典
（新英汉词典）编写组编
●
生活·读书·新知三联书店香港分店出版
香港域多利皇后街九号十一楼
中华书局香港印刷厂承印
香港九龙炮仗街七十五号
●
1975年10月香港第一版

版权所有 · 不准翻印





edge of a *kang*

【炕席】 kàngxí *kang* mat

【炕沿】 kàngyán 〈口〉 the edge of a *kang*

【炕桌】 kàngzhuō a small, short-legged table for use on a *kang*; *kang* table

钪 kàng 〈化〉 scandium (Sc)

kāo

尻 kāo 〔古书用语〕 buttocks; bottom

kǎo

考 kǎo ① give or take an examination, test or quiz: 我~~你。I'll give you a quiz. 或 Let me quiz you./ 你的数学~得怎么样？How did you do in the maths test (或 quiz)?/ 应~ sit for (或 take) an examination/ ~上大学 be admitted to a university ② check; inspect ③ study; investigate; verify: 待~ remain to be verified ④ 〈书〉 one's deceased father

【考查】 kǎochá examine; check: ~学生成绩 check students' work

【考察】 kǎochá ① inspect; make an on-the-spot investigation: ~水利工程 investigate water conservancy projects/ 出国~ go abroad on a tour of investigation ② observe and study: 应当在长期的群众斗争中，~和识别干部，挑选和培养接班人。It is essential to test and judge cadres and choose and train successors in the long course of mass struggle. ◇ ~团 observation (或 investigation) group/ ~组 study group

【考场】 kǎochǎng examination hall or room

【考订】 kǎodìng examine and correct; do textual research

【考古】 kǎogǔ ① engage in archaeological studies ② archaeology ◇ ~学 archaeology/ ~学家 archaeologist

【考核】 kǎohé examine; check; assess (sb.'s proficiency): 定期~ routine check/ ~干部 check on cadres/ 技术~制度业已建立。A system to assess technical proficiency has been established. ◇ ~飞行 check-out flight; check flight

【考究】 kǎojiu ① observe and study; investigate: 这问题很值得~。We need to go into the matter seriously. 或 This problem merits serious attention. ② fastidious; particular: 穿衣服不必过于~。One need not be too particular about dress. ③ exquisite; fine: 这本画册装订得很~。This album is beautifully bound.

【考据】 kǎojù textual criticism; textual research

【考卷】 kǎojuàn examination paper

【考虑】 kǎolǜ think over; consider: 让我~一下再答复你。Let me think it over before I give you an answer./ 这方面的情况你~了吗？Have you taken this aspect of the matter into account?/ 计划~不周。The plan has not been carefully thought out./ 不~个人得失 disregard personal gains and losses/ 给予同情的~ give sympathetic consideration to

【考勤】 kǎoqín check on work attendance ◇ ~簿 attendance record

【考取】 kǎoqǔ pass an entrance examination; be admitted to school or college (after an examination)

【考生】 kǎoshēng candidate for an entrance examination; examinee

【考试】 kǎoshì examination; test

【考题】 kǎotí examination questions; examination paper: 出~ set an examination paper; set examination questions

【考问】 kǎowèn examine orally; question

project/ 河流开发~ a river development programme/ 有~地进行 proceed in a planned way ② map out; plan: ~好了再动手干。Map it out before you start./ 我们~下周出发。We plan to leave next week.

◇ ~供应 planned supply/ ~经济 planned economy/ ~生产 planned production/ ~生育 family planning; birth control

【计件】 jìjiàn reckon by the piece ◇ ~工资 piece rate wage/ ~工作 piecework

【计较】 jìjiào ① haggle over; fuss about: ~小事 be too particular about trifles/ 他不~个人得失。He gives no thought to personal gains or losses. ② argue; dispute: 我不同你~，等你气平了再说。I won't argue with you now. Let's talk it over when you've calmed down. ③ think over; plan: 先安排一周的活儿，以后再作~。We'll arrange a week's work first and think about the rest afterwards.

【计量】 jìliàng measure; calculate; estimate: 不可~ inestimable ◇ ~学 metrology

【计谋】 jìmóu scheme; stratagem

【计日程功】 jì rì chéng gōng estimate exactly how much time is needed to complete a project; have the completion of a project well in sight

【计时】 jìshí reckon by time ◇ ~工资 payment by the hour; time wage/ ~工作 timework

【计数】 jìshù count

【计数器】 jìshùqì 〈物〉 counter: 盖革~ Geiger counter/ 闪烁~ scintillation counter

【计算】 jìsuàn ① count; compute; calculate: ~出席人数 count the number of people present/ ~产值 calculate the output value ② consideration; planning: 做事不能没个~。We shouldn't do anything without a plan. ◇ ~尺 slide rule

【计算机】 jìsuànjī computer; calculating machine: 机械~ mechanical computer/ 电子~ electronic computer/ 模拟~ analogue computer/ 微型~ microcomputer/ 数字控制~ digital control computer/ 自动数字跟踪分析~ automatic digital tracking analyser computer/ 自动程序控制~ automatic sequence-controlled calculator/ 超高速巨型~ giant ultra-high-speed computer

◇ ~程序设计 computer programming/ ~存储器 computer storage/ ~代码 computer code/ ~软设备 computer software/ ~硬设备 computer hardware/ ~装置 computer installation

【计议】 jìyì deliberate; talk over; consult: 从长~ take one's time in coming to a decision; think sth. over carefully/ 二人~已定。The two of them settled on a scheme.

记 jì ① remember; bear in mind; commit to memory: ~错了 remember wrongly/ ~不清 cannot recall exactly; remember only vaguely/ 死~硬背 learn by rote/ 党的教导~在心 bear in mind the Party's teachings/ 我们要~住这个教训。We must keep this lesson in mind. ② write (或 jot, take) down; record: ~在笔记本上 write it down in a notebook/ 把结果~下来 record the results/ ~下电话号码 jot down the telephone number ③ notes; record: 游~ travel notes/ 大事~ a chronicle of events ④ mark; sign: 暗~儿 secret mark ⑤ birthmark: 他左腿有块~。There is a birthmark on his left leg. ⑥ 〈方〉〈量〉: 一~耳光 a slap in the face

【记仇】 jìchóu bear grudges; harbour bitter resentment: 他可不~。He's not the sort of person to bear a grudge.

【记得】 jìde remember: ~他的模样儿 remember what he looked like/ 我完全记不得了。I simply don't remember it./ 你~住这些数字吗？Can you carry all these figures in your head?

EXHIBIT C.—ADDITIONAL STATEMENTS

USA-ROC ECONOMIC COUNCIL
200 Main Street, P. O. Box 517
Crystal Lake, Illinois 60014
Phone 815/459-5875 · Telex 722447

DAVID M. KENNEDY
Chairman of the Board
W. N. MORELL JR.
President
EUGENE M. KEYS
Secretary / Treasurer

JOHN ALISON
Northrop Corporation
LT. GOV. SPENCER BERNARD
State of Oklahoma
WALLACE E. CARROLL
Katy Industries, Incorporated
EVERITT A. CARTER
Oak Industries, Inc.
ANTHONY T. CERNIGLIA
Stone and Webster Engineering Corporation
MRS. ANNA CHENNAULT
TAC International, Inc.
WALKER L. CISLER
Overseas Advisory Associates, Inc.
A. STEPHENS CLAY
Kilpatrick and Cody
THOMAS L. CLINTON
Clinton Electronics Corporation
JEAN DE ROCHEFORT
Irving Trust Company
ROBERT H. DILWORTH
Baker and McKenzie
F. A. DUDDERAR
US Steel Engineers and Consultants
PETER J. FASS
Reichhold Chemicals, Inc.
ROBERT W. GALVIN
Motorola, Inc.
KIRTLAND C. GARDNER
Corning International Corporation
CECIL GRIMES
Gulf Oil Chemicals Company
FRANK G. HICKEY
General Instrument Corporation
A. MATIUK
Gibbs and Hill, Inc.
JACK R. MATTHEWS
US Industrial Chemicals Company
National Distillers and Chemicals Corporation
ROBERT P. PARKER
Kaplan, Russin, Vecchi & Parker
MICHAEL PELEHACH
Grumman International, Inc.
H. O. REINSCH
Bechtel Power Corporation
J. H. SCHRIEVER
American Cyanamid Company
E. M. SMITH
E-Systems, Inc.
GEORGE J. STATHAKIS
General Electric Company
THEODORE STERN
Nuclear Energy Systems
Westinghouse Electric Corporation
LEONARD UNGER
Ambassador (retired) (Honorary)

EXECUTIVE DIRECTORS
DAVID M. KENNEDY
Chairman of the Executive Committee
EVERITT A. CARTER
Oak Industries, Inc.
ROBERT H. DILWORTH
Baker and McKenzie
ROBERT W. GALVIN
Motorola, Inc.
W. N. MORELL JR.
Ex Officio
H. O. REINSCH
Bechtel Power Corporation

September 16, 1982

Mr. James McClellen
Senate Judiciary Committee
Room 8-A
Russell Senate Office Bldge
Washington DC 20510

Dear Jim,

I have attached written testimony for your hearings on the Taiwan Relations Act. This has been reviewed with David Kennedy who has given his approval.

Hope it will prove helpful.

Very best regards.

Sincerely,

W. N. Morell, Jr.

encs.

Fostering Business Relations Between The United States and The Republic of China on Taiwan

USA-REPUBLIC OF CHINA ECONOMIC COUNCIL

PRESENTATION TO THE SENATE JUDICIARY COMMITTEE

Mr. Chairman we greatly appreciate the opportunity you have afforded us to prepare written testimony on the significance to the US business community of the Taiwan Relations Act.

First, let us say that our USA-Republic of China Economic Council has over 330 members and that altogether over 4,000 representatives of American business firms and officials of US states have participated in our meetings and in other activities of the Council. We do not, however, presume to speak for the business community on this subject. We are fully aware that there are diverse opinions and views regarding our policy toward the Republic of China on Taiwan. We do however benefit from our close association with American firms involved in commercial dealings with Taiwan and, of course, draw on our own experience in both government and business.

The central objective of the Council has always been to foster business relations between the two countries, recognizing that this relationship not only contributes to individual US firms but to employment and income in the United States. I am sure you can appreciate that these ties are also of particular significance for the future viability of Taiwan as that country becomes more deeply dependent on its business relations with the US and on the American technology that is so critical to the future modernization of its economy.

All of this means that the utterances of the US Congress and the Executive Branch, as embodied in such documents as the Taiwan Relations Act and the recent Communique, have more than the usual impact on the psychology of inessmen and their Chinese counterparts on Taiwan - and indeed on the general outlook of most of the people on the island. The other side of the coin is that the successes and failures of that economy have a very marked influence on the stability of Taiwan and can affect the pace of liberalization we have seen taking place in their politico-economic system. Progress in the economy and in the development of a more progressive and stable society obviously feed on each other; and the psychology of the business community and the general population has an important influence on both.

After the announcement of the Shanghai Communique in February 1972, we witnessed a series of developments exemplifying this relationship between US policy pronouncements and business psychology. Almost immediately following the Communique, we saw a marked increase in the flight of capital from Taiwan; a decline in the value of the New Taiwan Dollar; a drop in the stock market; more caution by investors; a downturn in real estate prices; and the postponement of many business decisions. Various statements by American government and business officials/eventually helped to allay these concerns but for the business community there was a period of disquiet and watchful waiting.

It was also a time when Taiwan needed to develop its commercial relations with Europe in order to offset the loss of diplomatic relations; however, European countries for the most part, realizing the depth of Taiwan's dependence on commercial relations with the United States and fearful as to the ultimate course of US policy toward Taiwan, held off any substantial expansion of trade, investment and banking ties until near the end of the seventies.

In time, however, the psychological shock of the Shanghai Communique was dissipated and pragmatism of businessmen on both sides ultimately prevailed. Business was better than ever; US and Japanese investment on Taiwan set new records, a strong international financial position was achieved and the economy surged ahead at a pace envied by developing and developed nations alike.

Immediately following "de-recognition" in January 1979, a number of moves were made within the Executive Branch to ease the concerns of the business community. While these efforts had some salutary effect they were clearly recognized by the US Congress to be inadequate for the situation that prevailed and an extensive redrafting of the proposed legislation took place within the Congress itself.

At that time we testified before the Senate Foreign Relations Committee and outlined some of the dangers we felt were inherent in the new situation. Fortunately the US Congress, after numerous exchanges with expert witnesses and after careful, searching investigation, drafted legislation that went far beyond the original proposals in protecting US national interests in our relations with Taiwan.

There is no question that passage of this legislation and its signing by President Carter was a very essential corrective, not only for the business psychology in both countries but for the national psychology of Taiwan as well.

Looking back over the period following "de-recognition" and passage of the Taiwan Relations Act, we find continued stability and progress in Taiwan's economy and a marked upturn in US-Taiwan business relations. But in addition, the TRA probably also played a role, quite unexpectedly, in triggering a surge in European competion with the US in the Taiwan market. Some analysts believe that after the Taiwan

Relations Act had provided reassurances regarding long term US intentions in its relations with Taiwan, the Europeans felt more confident as to the stability and permanence of that market. Beginning in 1979-80 there was a great rush of European firms seeking to establish commercial contacts, trade offices, exhibitions, new investments and branch banks on Taiwan and these moves were accompanied by an impressive growth in two-way trade. For Taiwan, these commercial ties with Europe are an important substitute for the absence of diplomatic relations and they have provided a noticeable lift to Taiwan's international stature. Clarification of the U.S. position by the TRA can undoubtedly take some of the credit for these gains.

Currently the ROC economy is moving ahead at a slower pace than in the past; however there is a good chance that the rate of real growth in the second half of 1982 will reach 4 to 5 percent which is quite respectable by world standards. Foreign investment the first half of this year - one of the best measures of foreign business confidence in Taiwan's future - is up over the same period of last year and investment in new firms on Taiwan also is showing significant gains.

The world-wide recession together with foreign import restrictions not only have temporarily weakened Taiwan's economic growth but of course have dampened its international trade as well. However long term prospects remain bright. Two-way trade with the U.S. for the first six months of 1982 exceeded 6.6 billion (on the basis of preliminary data) and 1982 totals should exceed those in 1981.

The ROC's international financial position and its international credit rating are exceptionally strong. Foreign debt payments are low in relation to foreign exchange earnings and foreign exchange reserves have reached impressive levels of over $9 billion.

Taiwan's economy has long been known as one of the most successful among all of the developing countries and today it is considered in the forefront of the economies of all newly industrializing nations.

While no dates outlining periods of economic history can be precisely defined we probably would not be far off in suggesting that during the last 20 years of this century Taiwan will be going through a technological revolution.

Following a remarkable expansion of its basic industries, Taiwan is now moving into high technology industries including: computers; the information industry; electronics; automation; precision machinery and instruments; aeronautical, automotive and nuclear industries; advanced telecommunications and the like. There is no question that over the next two decades we will be witnessing a profound transformation of the economy.

At the same time we will see Taiwan develop as one of the leading international centers in Asia in terms of shipping, air transportation, telecommunications, banking and finance, free trade and processing zones, foreign trade, regional service and repair facilities, etc.

We also are confident that the ROC will continue to liberalize its election process and will move forward as they have in the past in extending the benefits of the nation's economic development to people in all walks of life. Taiwan already is recognized internationally as having one of the most equitable distributions of income in the world.

Its farmers' have benefitted from an exceptionally successful land reform program under which nearly all of those who work the land own it. To this has been added an outstanding agricultural extension service which ensures that the latest developments of modern agriculture are passed along to the farmers through educational networks and a variety of assistance programs. The number of secondary schools, universities and technical schools has grown at an enormous rate over the past 30 years and the rising quality of this education has enabled Taiwan to modernize its society and to compete internationally. Educational opportunities are largely based on merit and greater social mobility has been one of the principal benefits.

Other social gains are seen in the general availability of hospital care, medicine, food, housing, clothing, communication, transportation. There are also cultural opportunities of all kinds. Talented musicians, dancers and painters of international calibre, for example, are appearing in increasing numbers and are gaining greater acceptance abroad.

In essence we find this country and its value systems moving in directions which more and more are contributing to the general welfare of the people. It, of course, is not a society without flaws but it certainly stands in the forefront of the newly industrializing countries.

All of the foregoing is relevant to the issues before us in this hearing. Only Taiwan - its leadership and its people - can take credit for these achievements. But the United States has had an unbroken record of support for this country for more than thirty years and has helped create an enviornment that has certainly been helpful to the course of its development.

Our relationship changed in form with "derecognition" but the American people and the Congress sought to continue our close ties in substance through the Taiwan Relations Act.

The general feeling on Taiwan and in the United States was that the Taiwan Relations Act reflected the national mood and the desire of the overwhelming majority of American people that the US maintain its ties with Taiwan and further strengthen that relationship. Not only the language of the Act but the legislative history makes it clear that the US Congress was concerned about the possibility of efforts to weaken Taiwan's security either through force of arms or through political and economic pressure and it was noted that such actions would be "of grave concern to the United States."

The Act sought to assure Taiwan's defense by stating that "the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability". There was no pre-judgement as to the trend of US defense supplies nor their qualitative level since this of course would be determined to a significant extent by the nature of whatever threats were perceived over time to Taiwan's security.

Much attention has been focused over the past year on these defense provisions of the TRA beginning with discussions in 1981 and in early 1982 over the FX aircraft for Taiwan; and more recently in connection with the F-5E contract. However, it is important to understand that Taiwan's military security is but one element of the TRA contributing to the stability and growth of our relationship with Taiwan. It is this legislation in its entirety which has helped to provide a more solid underpinning to our relationship and has enabled us to at least partially repair the damage resulting from the act of "de-recognition".

The section of the TRA (Public Law 96-8) dealing with "Application of Laws; international agreements" for example, was drafted to ensure the legal continuity of our relations. Clearly this could not have been handled as effectively without those provisions of the TRA noting that "the absence of diplomatic relations or recognition shall not affect the application of the laws of the United States with respect to Taiwan" and that "the laws of the United States shall apply with respect to Taiwan in the manner that the laws that the United States applied with respect to Taiwan prior to January 1, 1979". These provisions are critical to the conduct of our business relations.

The following paragraph in this section of the Act, ensuring that "whenever the laws of the United States refer or relate to foreign countries, nations, states, government, or similar entities such terms shall include and such laws shall apply with respect to Taiwan" was also of vital importance as were subsequent paragraphs dealing with such subjects as: the authority to carry out various programs with Taiwan; applications of laws to contracts with commercial entities; obligations such as contracts, debts or property interests; application of the Immigration and Nationality Act; the capacity of Taiwan to sue or be sued in courts in the United States - all of these as well as many other provisions of the law are basic protections required to ensure the continuation of our business relations in a form beneficial to our national interest. Given the fact of "de-recognition" the TRA has provided remarkably effective support to a business environment which would have been fraught with uncertainty without it.

In many quarters, there is the perception that, despite the TRA, there continues to be an erosion of US support for Taiwan as evidenced by the FX decision, the President's letters to the 3 leaders in the PRC and the recent Communique. The press generally here in the United States and on Taiwan clearly takes this position as do a number of legislators in both countries as well as some officials in the Executive Branch on Taiwan. We have noticed in many quarters more questioning than we have noted in the past as to precisely where US relations vis-a-vis Taiwan are heading. We have also expressed our concerns about the direction of US policy. We feel it is important that the integrity of the TRA be maintained, that there not be a weakening in the relative military balance between Taiwan and the PRC, that Taiwan not be encouraged to engage in any relationships which they believe are detrimental to their interests and that we not interfere with their freedom of choice with respect to their relations to the PRC.

We believe that the TRA was designed to achieve these objectives. While we have worrisome questions about the recent US-PRC Communique we were pleased by the President's statement accompanying that document, insisting that the United States will continue to adhere to the provisions of the Act. As is so often the case, the ultimate impact of this legislation will be determined to a great extent by the way in which it is interpreted and administered. For this reason we were encouraged by a number of positive signs in Secretary of State Shultz' testimony about our policy toward Taiwan during his confirmation hearings before the Senate Foreign Relations Committee.

We do not underestimate the many difficult and often conflicting considerations impinging on decisions within the Executive Branch that affect our relations with Taiwan. From the point of view of the business community, however, we believe it is vitally important that the TRA not be modified or undermined through interpretation in any way which would suggest a lessening of US support for our ties with Taiwan. This legislation and its administration will be of central importance not only as the framework for our day-to-day business relations but as a reflection of the attitude of our government toward our Taiwan connection, and in this sense the decisions of the Executive Branch will have a marked effect both on the business psychology and the general outlook for stability and progress on Taiwan.

David M. Kennedy
Chairman, USA-ROC
Economic Council

W. N. Morell, Jr.
President

Bechtel Power Corporation
Engineers—Constructors

Fifty Beale Street
San Francisco, California
Mail Address: P.O. Box 3965, San Francisco, CA 94119

PRESENTATION TO THE SENATE JUDICIARY COMMITTEE

Mr. Chairman, I appreciate your invitation to present this written testimony on the significance of the Taiwan Relations Act to the U.S. business community and the possible effects of the recent joint US-PRC communique on implementation of this Act.

As President of Bechtel Power Corporation, I and my associates have observed how the TRA successfully countered the negative business climate created by U.S. "de-recognition" of Taiwan in 1979. The TRA reaffirmed the U.S. long term intentions in its relations with the people of Taiwan and, as a result, Taiwan's economy continued to progress with expanded participation of U.S. companies. The TRA also signalled the long term stability of the Taiwan market to European businessmen and they responded with investments in Taiwan and increased trade. These strong U.S. and European trade commitments have enhanced Taiwan's international stature and lessened the impact of its lack of diplomatic relations.

The TRA clearly reflected the consensus of the American people that the U.S. continue to maintain its historic relationship with Taiwan and protect its security. The provisions of the Act permit business to be conducted with full legal protection despite the absence of diplomatic recognition and we have found these provisions to be viable.

The Act in furtherance of U.S. policy to help maintain peace, security and stability in the Western Pacific provides that "the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." The Act further states that the "President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law."

The recent joint communique restricts sale of arms to Taiwan to sales "that will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years" and further states that the United States "intends to reduce gradually its sale of arms to Taiwan."

These restrictions, as a concession to improved relations with the Peoples Republic of China, appear to be contrary to the spirit and intent of the Taiwan Relations Act which was to maintain the military balance between Taiwan and the PRC. Since the PRC have consistently opposed any arms sales to Taiwan as infringing on their sovereignty and interference in their internal affairs, it would also appear that this communique gives the PRC the opportunity to press for reductions and an ultimate end of arms sales to Taiwan as the price for continued favorable relations.

The joint communique has created an atmosphere of uncertainty in Taiwan as to the American attitude towards Taiwan. This uncertainty can undermine the fundamental confidence of investment communities, both domestic and abroad, to make long term and large sum commitments in Taiwan. In addition, this uncertainty has exacerbated the current downturn in the Taiwan economy caused by the worldwide recession.

The Taiwan government has recently established new incentives to stimulate investments. However, the best cure for the current situation is to re-establish the public psychology of political stability. This can best be accomplished by official reaffirmation of the Taiwan Relations Act.

As an American citizen and businessman, I feel compelled to bring my views on this subject to the attention of the Congress. I fully appreciate that protection of our national security is paramount and that concessions in foreign relations are necessary to that end. However, in this instance, I believe our national integrity demands that we reassert the commitments made in the Taiwan Relations Act, which was signed into law, so that this communique will not be construed as a weakening in United States support of Taiwan. Conversely, I would hope that this reassertion could be done in a manner that would preserve the progress we have made in improving our rapport with the PRC because it is in our national interest to maintain an "even-handed" relationship with the people on both sides of the Taiwan Straits.

H.O. Reinsch

H.O. Reinsch
President
Bechtel Power Corporation

September 17, 1982

UNITED STATES FOREIGN POLICY AND THE CHINA PROBLEM

by

Morton A. Kaplan

The opening to China of the Nixon administration that produced the Shanghai communiqué was received with a great deal of euphoria in the United States and much fear in the Soviet Union, where initially it was perceived as an encircling move. Although official circles within the Soviet Union soon saw the significant limitations of the relationship between the United States and mainland China, many in the United States still perceive the relationship with Communist China as an important link in the American defense system.

Although "normal" relations between the Peoples' Republic of China and the United States certainly are to be desired, the defense link concept is extraordinarily weak. In the first place, China is not a significant military power. It had difficulty in mounting a sustained offense against Communist Vietnam. Communist China is in no position militarily to threaten the Soviet Union. As the mainland authorities themselves openly state, the Chinese military forces have outdated military equipment and are incapable of mounting any kind of serious offensive against a modern force. Their main purpose is to make an invasion of China so costly that the Soviet Union, facing NATO to the west, will not make the effort.

Whether China actually diverts Soviet forces from the West is open to question. It is likely that Soviet forces on the Chinese border have as their chief purpose the intimidation of the Peoples' Republic of China. However, even if it is true that China diverts forces that otherwise might be arranged against NATO, that is a product of the geographic proximity of the two nations and not of cooperation between the Peoples' Republic and the United States.

Although it is in the American interest that the Peoples' Republic not feel so isolated that it believes itself forced to accommodate to Soviet policy, that result is not likely in any event; and the United States need not pay any significant price to achieve it. On the other hand, excessively hostile policies by the United States or excessive military weakness in the United States might produce that kind of temporary accommodation.

The Peoples' Republic of China can be depended upon to pursue those policies that are in its own interests. Under most circumstances, it would be in the interest of the Peoples' Republic to equidistance itself from the United States and the Soviet Union.

The greatest deterrent to that type of policy by the Peoples' Republic lies in the encircling activities of the Soviet Union, including its ventures in Afghanistan and its presence in Vietnam. The same intransigence that prevents the Soviet Union from returning the northern islands to Japan also prevents the Soviet Union from making the minor border adjustments that would ease a rapprochement with Communist China.

On the other hand, the Peoples' Republic can be counted upon to follow policies parallel to the United States if Soviet activities threaten Thailand, Malaysia, or Indonesia because its interests will require this. It will not do this out of friendship for the United States or for the nations under threat. In 1934, for example, Hitler warned the Poles that he would divide Poland with Russia if they did not cooperate with him. And the day after Munich, Potemkin, the number two man in the Soviet foreign office told Coulandre, the French ambassador, "Ah, my poor friend, this means the fourth partition of Poland." None the less, Britain and France refused to believe that Communist Russia and Nazi Germany would follow parallel policies because they focussed on their hostility rather than on their temporarily parallel interests. The current policy of the United States that placates the mainland regime is not required to achieve parallel Chinese activities when mainland interests facilitate this and is insufficient to do so if mainland interests do not facilitate this. The current Chinese moderation on wars of liberation fits into this picture. Support for these wars is likely to resume if and when the local situation makes it advantageous quite apart from American policies on arms to Taiwan. Although it cannot be excluded that the United States might be able to influence the timing and degree of such support, that influence is likely to be marginal, transient, and not necessarily related to polity toward Taiwan. Similarly, Chinese moderation on the issue of South Korea is likely to be affected more by the Chinese/Soviet rivalry for influence in North Korea and by Chinese trade with South Korea. Any marginal -- and hypothetical -- gain that might follow from concessions to the mainland on this issue will be overbalanced by heavy costs both in terms of strategic considerations and American values.

Senator Jackson's fear that if we do not accommodate the Peoples' Republic, there will be a Sino/Soviet pact equivalent to the Nazi-Soviet pact is based on a complete misreading of the latter. The Soviet Union would not have fought on the side of the West if there had been a war over Czechoslovakia. Among other factors, neither Rumania nor Poland would have given them transit rights; and for good reasons. However, if the West had stood up at Munich either Hitler would have been overthrown by the army or the good Czech army and the Czech military glacis would have funtioned on the allied side while German rearmament was in its still early stages.

When Czechoslovakia was thrown away and the West supported Poland, General Gamelin promised the Poles that France would remain firm in support behind the Maginot line. If Russia had not made the Pact, it feared Hitler would have continued to march East. Russia would not have had half of Poland for defensive purposes and it would have lost important time to recover from its own army purges and economic weaknesses. Moreover, misunderstanding the weakness of France, Stalin thought the war might have been a stalemate in the West. (Incidentally, as a freshman, I predicted the Nazi-Soviet Pact for such reasons, while the chancelleries of the West, with more information, made their usual errors).

No possible parallel exists in the present situation. China needs to play on the U.S./Soviet conflict. Russia is not deliberately moving to war. And, if it were, China would seek some way to divert it to us. In the meantime, the only threat to it is Russian encirclement.

Contrary to much bad history, Stalin knew that he was under threat from Nazi Germany, and the Pact was an expedient to divert or to delay attack. Friendly gestures or concessions from the West could not have changed his policies. Only effective anti-Nazi policies could have done so. If there is a parallel at all, the advice of Senator Jackson is irrelevant. China some day will move closer to the Soviet Union to balance against the West, because this will serve its interests. But it will not be foolish enough to cooperate in Soviet plans against us except to divert attack from itself. And then it will not matter whether or not we have betrayed Taiwan.

Furthermore, it is not in the American interest that relations between China and the Soviet Union become critically strained. The threat of war between those two powers would confront the United States with uncomfortable alternatives. The United States would be most unlikely to come to the military assistance of China, although it might provide economic assistance and perhaps even military equipment. Certainly the United States has no interest in a war that might result either in a puppet regime in North China, thus enhancing Soviet power in the Pacific, or the embarrassment resulting from American unwillingness or inability to do anything substantial to help the Chinese.

Far more important than a quasi-alliance with the Peoples' Republic is the defense triangle: Japan, South Korea, and the Republic of China. This defense triangle, which is based on common interests and relatively common values, protects both the East Asian rimland, including the Philippines, and Southeast Asia. Whereas the threat of Chinese subversion or even armed pressure might increase if the Soviet presence in Southeast Asia is reduced, this defense triangle is a dependable asset because it is based on relatively permanent common interests.

As strong as as is this confluence of interests, it would not justify an American effort to interfere with the unification of China if this occurred consonantly with the wishes of the inhabitants of both of the areas. The strategic risks that such unification would initiate necessarily would take second place to American interests in a principled international order. Furthermore, given the legitimate nationalism of the Chinese people, such interference would give rise to risks of still an additional character. However, the current American policy, including President Reagan's three letters to Beijing, are a form of low comedy; for they sacrifice vital strategic interests of the United States and at the same time are contrary both to

American ideals and to its interests in a just international order. The amateur Machiavellians of the State and Defense departments who are the architects of this policy are unprincipled and asinine.

Inasmuch as the United States has overvalued the importance of a quasi-alliance with the Peoples' Republic, there is every incentive for the United States to follow a principled policy with respect to the Peoples' Republic and the Republic of China. The United States should follow a consistent policy with respect to the three divided states of Germany, Korea, and China. The United States should favor the eventual unification of these states and make clear that it will do nothing to inhibit such reunification as long as that occurs in the absence of force, or the threat of force, and according to the freely-expressed wishes of the peoples of both of the divided areas. In principle, the United States should enter into diplomatic relations with both the contending governments of each divided state. Of course, Western Germany should take precedence in Germany because it is the larger entity and has the willing acquiescence of its people whereas the East German regime is maintained by force and only with Soviet military support. In the case of Korea, clearly the government of South Korea has the greater popular support, a larger territory, and more population. In the case of China, the mainland regime takes precedence on all counts except voluntary acquiescence of the population, and this justifies the fact that the Peoples' Republic holds the China seat in the Security Council of the United Nations. On the other hand, it is quite inconsistent that the United States maintains no formal relations with the Republic of China because of the diplomatic threats of the Peoples' Republic. Moreover, in a world in which not genuinely independent governments such as those of Byelo-Russia and the Ukraine hold seats in the United

Nations, it is a disgrace that the Republic of China is not represented in the General Assembly of the United Nations.

According to well-established principles of international law, if there is a revolt within a state, recognition remains with the established legitimate government. However, if the war continues for a long time, if the revolutionary forces acquire territory of significance, if they have the acquiescence of the population within that territory, they acquire rights of belligerence and even have some rights of normal intercourse with respect to other states, even while the civil war continues. In China, the civil war has ceased. As in Germany and Korea, two regimes with claims to the whole state have become part of a peaceful international order.

One might have argued in late 1949 or 1950 that the Peoples' Republic had won the civil war and that relations should be broken with the Republic of China. However, thirty years later, that argument no longer has force. The Republic of China has been a stable regime, it has the support of the population, and it is in control of its territory. In a bipolar system in which an attempt to re-establish by force the unity of a divided state might well initiate a destabilizing and spreading war, it is in the interest of all states that these issues no longer be settled by force and that each of the contending parties acquire status within the international system without prejudice to the eventual peaceful reunification of the states.

If the position of the Republic of China is threatened, there likely would be an internal coup that establishes an independent government of Taiwan: for almost no one in the Republic wants any part of mainland rule. If this occurs, the same American sympathies that produced the Taiwan Relations Act likely will lead to its recognition. Thus may come about the two Chinas that both Chinese regimes profess to oppose. The fact that mainland policy produces this risk knowingly is an indication that its leaders place personal, factional, and ideological considerations above Chinese nationalism. The force of Chinese nationalism, however, likely would prod them into adventurous policies if this occurs; and therein lies a very dangerous aspect of the policies of the United States and of the Peoples' Republic.

Recognition by the United States that there is only one China and that Taiwan is part of China does not in and of itself constitute recognition by the United States of any authority on the part of the mainland regime with respect to the Republic of China. Both the Republic of China and the Peoples' Republic recognize that the state of China includes both the mainland areas and Taiwan. There are two contending regimes and each has acquired certain legitimate rights under contemporary international law.

Therefore, even apart from the Taiwan Relations Act, there is no reason why the United States should not supply weapons to the Republic of China. This is not interference in the internal affairs of China; to the contrary, negotiation of this issue with the mainland regime constitutes interference in the affairs of the Republic of China. Furthermore, were the United States to acquiesce in such demands by the mainland regime, what would prevent that regime at some future date from asserting that trade with the Republic of China comes within the framework of the sovereign power of the mainland and that each shipment must pass through mainland customs? How indeed would Communist China react if South Korea asserted that military aid to North Korea constituted interference in the internal affairs of Korea? Suppose West Germany argues that nations that have diplomatic relations with East Germany are interfering in the internal affairs of Germany? One can easily see the type of disruption that would occur in the international community if such principles were accepted. There is no basis in logic or law to support the demands of the mainland regime. If it wishes to rupture or to reduce relations with the United States as a consequence of the shipment of arms to the Republic of China, that, of course, is its privilege. But it would pay a high price for exercising that privilege, and it would do so on the basis of no understandable principle.

There are no important practical reasons for the United States to succumb to this type of diplomatic blackmail by the Peoples' Republic. There are in addition important practical reasons to resist it. Among other reasons, it will ease the task of the Soviet government in securing the acquiescence of the Russian people to the harsh conditions they must endure to maintain such a large military force. The Soviet government is a dictatorship and an unpopular one that must force production out of an otherwise unwilling population. Furthermore, dissent and internal sabotage are increasing because the conditions of life in the Soviet Union are growing worse. The latest estimates concerning growth in manufacturing industries in the Soviet Union place it barely over one percent. Longevity is on the decline and infant mortality is way up. To the extent that the population still strives loyally to produce war material for the Soviet military regime, this shows the patriotism of the Russian people. That patriotism is fed by the brinksman-like talk of the Reagan administration and by racial fear of China. There is much talk of a yellow peril by intellectuals in the Soviet Union. Among European Russians, fear of China runs very deep.

Although the Soviet leadership does not fear China or an attack from Europe, the Russian people are aroused by the argument that there is an aggressive alliance between the United

States and the Peoples' Republic. Any appearance of coordination of policy between the United States and China can be used successfully by the Soviet regime to feed this fear and to support the Soviet policy of military strength.

Not only is American responsiveness to Chinese mainland demands on this issue counterproductive in terms of its policy toward the Soviet Union, but it is counterproductive in other important terms. For instance, an additional betrayal of its friends by the United States will further reduce the credibility of the United States and its value as an alliance partner. No matter how much Communist China wishes the United States to betray the Republic of China, even it will begin to consider the United States as a paper tiger if it does so. Furthermore, such a betrayal would be destructive of the principles for which the United States stands. A democracy that is not true to its principles will soon corrupt its policy process and undermine popular support for policy.

In any event, the mainland regime does not really believe that in supplying weapons to the Republic of China the United States is following a two-Chinas policy. It makes its demands for three reasons. In the first place, they are useful ideologically in the internal struggle for power in the Peoples' Republic. In the second place, accession by the United States to these demands would further delegitimize the Republic of China, open up the United States to additional demands at a later time of the kind I have already indicated, and weaken survivability of the Republic of China. However, third, and most important, the demands are being made because the mainland regime has only very limited legitimacy. Their own journals and newspapers acknowledge that even within the Communist Party there are demands for a multi-party system, a return to economic rationality, and freedom of speech and inquiry. The mainland journals admit that party members, as well as many in the ordinary population, point to the superior economic performance of the Republic of China and ask why the mainland regime is not doing better.

Acceptance of its demands with respect to the Republic of China by the United States would reinforce the legitimacy of the mainland regime both by means of this recognition and as a harbinger of unification, which is an essential aspect of legitimacy in China. Certainly this is not something that we owe them or to which they have any right. If they can point out that the United States recognizes their suzerainty over the Republic of China, the discouragement of the democratic forces on the mainland will be profound.

The position of the United States should be that all states, divided and undivided, should be insulated as much as the international system permits from external intervention. In particular, the future of the two Chinese governments is a matter primarily for the Chinese people. If, however, in the case of China, unlike the case with respect to Germany and Korea, the United States accepts the demands of the Peoples' Republic, it will be interfering in that free choice. Moreover, the leader of the free world, the United States, would be saying in effect that the contest between democracy and dictatorship in China -- and here I speak not of the military civil war that ended in 1950 but of the contest of ideas as exemplified in two competing political and economic systems had ended -- and that it recognized the system on the mainland as a legitimate system for all of China. This would be a betrayal not merely of the Chinese people but of the United States and of the principles for which the American republic stands.

Subject to the proviso that the United States does not allow itself to be coerced into accepting the dictat of the mainland regime, friendly relations between the United States and it are certainly to be desired. If the mainland regime is threatened externally, prudent assistance would be in accordance with American interests. It is also in the interest of the United States that the present hostile relationship between the Peoples' Republic and the Soviet Union be ameliorated. Although the United States certainly does not wish to see a revival of the alliance between the Peoples' Republic and the Soviet Union, it has no interest in conditions that permit the threat of war or coercion by the Soviet Union.

Furthermore, the United States should support reasonable relations between the two Chinese regimes. Both regimes should subscribe to the non-use of force or the threat of force against each other. Both should recognize that they are in contention for the hearts and minds of the Chinese people and that each should strive to produce a regime and conditions of life that would persuade the people of the other regime to accept unity. Both should agree to assist the other if it is attacked by an external power. They should agree to trade under reasonable conditions. Perhaps the Republic of China might even be persuaded to assist in the economic development of the mainland and the mainland regime to sponsor the re-entry of the Republic of China in the United Nations. Occasional meetings between officials of the two regimes under conditions of equality should take place. These conditions are illustrative only and are not intended to be either exhaustive or definitive in their present formulation.

The agreement that the United States indicated on August 17 that it had reached with the Peoples' Republic of China is wrong in principle. In the first place, the United States negotiated an agreement concerning the Republic of China without any participation by that nation. This follows the unfortunate practice of Henry Kissinger with respect to the Republic of Vietnam. The Soviet Union would never show such disrespect to states with which it has been associated; and for good practical reasons.

In the second place, the agreement binds the Peoples' Republic of China to absolutely nothing. It does not commit itself to peaceful measures. Nor does it even define what is meant by peaceful measures. It merely reaffirms that its current fundamental policy is to reunify China by peaceful means. It has stated many times that it will use force if peaceful means fail.

On the other hand, although the United States claims that it has stated that its restraint on arms sales is conditional upon the maintenance of the Chinese position on peaceful means -- the communique says less than this: "having in mind the foregoing statements of both sides" -- it will in fact limit and decrease its arms sales to the Republic of China in the intervening period, thereby reducing the defensibility and confidence of the Republic of China. Moreover, its statement "leading over a period of time to a final resolution" appears to confirm the Chinese claim that the United States has agreed to phase out arms sales.

In the third place, the United States has virtually affirmed the legitimacy of the Chinese mainland position with respect to the Republic of China. It has redefined the Shanghai Communique to the further detriment of the Republic of China. Thereby, it tends to legitimize other "peaceful" measures that the mainland Chinese may insist upon and that in time conceivably could involve control over commerce, visits, and other important matters. It was unnecessary, unwise, and unprincipled for the United States to place itself in this position.

Although I am aware that some in the State Department are arguing that the position of the current leadership in the Peoples' Republic of China would be weakened if the United States did not make at least this much of a concession, I do not believe that we know so much about the internal politics of China and its likely developments that this game would be wise even if it were advisable on other grounds.

I am also aware that there are forces inside the Chinese army that would like to modify the position of the Peoples' Republic with respect to the Soviet Union. In fact, I do not believe it would be entirely bad for the Chinese to move closer toward a middle position between the United States and the Soviet Union. In any event, that is likely to be the position the Peoples' Republic will take provided that the Russian posture permits this.

Finally, I think it is a mistake of a distinct type to base external policy upon such considerations. In the Soviet Union, for instance, Malenkov was overthrown by Khrushchev and the "anti-party" clique with the support of the military on the grounds that he favored increased civilian production and believed that a nuclear war could not be won. Khrushchev then won dominance over the "anti-party" clique by means of similar alliances and arguments. Brezhnev secured the support of the military against Khrushchev on similar grounds. In office, they all changed positions.

It is very likely the case that the policies of administrations in power are constrained by factors distinctly different from those that lead to the formation of cliques designed to replace the current power holders. The attempts by the United States' State Department to use arguments of this kind to support devious policies would be ill-advised if its record had been better with respect to predictions concerning the policies of new foreign regimes. Given the fact that department bureaucrats appear to have had worse than chance records in these matters, this makes even worse what would be a bad basis for policy on other grounds.

I can conclude only that Assistant Secretary Holdridge has hoodwinked an inexperienced president into accepting a position the implications of which he does not understand.

From World Politics, January 1965

* * * * * * *

Despite Senator Fulbright's endorsement, George Kennan's thesis concerning the possibility that United States policy can affect the liberalization of the Soviet bloc is dubious. According to Kennan, "It could well be argued . . . that if the major Western powers had full freedom of movement in devising their own policies, it would be within their power to determine whether the Chinese view, or the Soviet view, or perhaps a view more liberal than either, would ultimately prevail within the Communist camp."[3] This analysis raises more questions than it answers. The lion's share of American aid within the Soviet bloc since 1956—aid that has been justified as a support for liberalization and autonomy—has gone to Poland, which, of all the Russian satellites, has backslid most since 1956 in terms of internal freedoms and autonomy. Hungary and Rumania have been virtually ostracized by the United States until recently. Yet these two nations have made the greatest advances since 1956 in liberalization and autonomy. Perhaps American aid prevented even greater backsliding in Poland. But it seems more likely that the commitment of the United States to the Gomulka regime disarmed the internal opposition and stifled the incentives for changes which, in terms of American values and interests, would have been highly desirable. It is striking that the Senator quotes Mr. Kennan's comment when, to the extent that there is any evidence, it would appear to support the opposite point of view. Here the Senator supports one of the State Department's new myths—a myth that lacks the functional values which the old myths did support.

In principle it would be possible to find a path among the strains of the Communist bloc and to structure a policy that advanced American interests by discriminating among the Communist nations. It is difficult, however, for one who has watched the divagations of the State Department to have any confidence in its attempts to do so. Nor do the leakings of incidental intelligence from the State Department concerning its image of the Communist world lessen the fears of the external observer.

The Department of State and Senator Fulbright have bought Khrushchev's myth of the great changes in Soviet foreign policy since Stalin. This myth invokes a picture of Khrushchev as more moderate and of Stalin as less moderate than either actually was. Khrushchev also sold to the United States his myth concerning the contrast between the peaceful Russians and the war-mongering Chinese. (Undoubtedly it was the boldness of Chinese attacks on Hong Kong, Macao, Quemoy, and Matsu that led us to accept this point of view.) Another aspect of this myth—one to which Senator Fulbright subscribes—is that the Chinese advocate the reckless use of nuclear weapons

---

[3] George Kennan, "Polycentrism and Western Policy," *Foreign Affairs*, XLII (January

(p. 57). Yet, as the Chinese have pointed out, it was Mr. Khrushchev who was reckless. The Chinese have said: "We have always maintained that socialist countries must not use nuclear weapons to support the peoples' wars of national liberation and revolutionary civil wars. . . . A socialist country absolutely must not be the first to use nuclear weapons, nor should it in any circumstances play with them or engage in nuclear blackmail and nuclear gambling. . . ."[4]

At least Senator Fulbright does not seem to subscribe to the emanations from some sources in Foggy Bottom that the United States and the Soviet Union will reach an accommodation that will enable them jointly to stem the aggressive designs of the Communist Chinese. Could any myth be better designed than this one to undermine American interests and values? Russia fronts on an area that is of urgent value to the United States. The skills, resources, and industry of Europe are such that the loss of the area to the Soviet Union would be a disaster. China does not front on any areas of reasonably comparable interest. Moreover, China diverts Russia from Europe. In addition, an alignment of the United States, Western Europe, and the Soviet Union against China would produce a racial confrontation that might undermine the values that characterize our institutions. Even though this notion is still not official policy, it is nonetheless deeply disturbing to hear talk of a U.S.-Russian alignment against China.

Even where Senator Fulbright speaks sensibly of the possibility that the United States and China might eventually cooperate on some issues, he builds into this position the myth that the problems between the two nations stem from China's "implacable hostility toward the United States" (p. 38). Undoubtedly the Kremlin would like us to believe this, but why should we play into his hand? And where is the evidence for this hostility? Korea? We threatened legitimate Chinese national interests when we marched to the Yalu. Our disclaimers that China should not have regarded this as a threat would have been worthless even had our action in marching to the Yalu not repudiated earlier statements by the Secretary of State that our only objective in Korea was to restore the *status quo ante*. There was no excuse for this action on our part unless we intended to have a showdown with one or both of the Communist powers. Taiwan? Undoubtedly we have a moral commitment to the inhabitants of Taiwan not to surrender them to Communist tyranny. But since we cannot expect the Communists to admit that their regime is immoral, our position is weak on the basis of the more traditional criteria. India? The border region is ill-defined. Even where the Indians have a treaty claim, they undermined it themselves by the rationale of their attack on Coa. The Indians consistently refused peaceful negotiations. They engaged in deep military probes and were preparing an attack when the Chinese beat them to it. The Senator is right that we have nothing to gain now from recognition and much to lose, but why cloak this conclusion in false moralisms? It only confuses the real issue of international politics—namely, that specific interests may be incompatible. And it reinforces the myth that our problems stem from misunderstandings. They may instead stem from proper understanding.

---

[4] From *Jenmin Jih Pao*, November 19, 1963, as translated and published by the BBC Monitoring Service in *Summary of World Broadcasts: Part III, The Far East*, 2nd Series (November 20, 1963), C9-C11.

Senator Fulbright thus structures a world in which the Russians show great moderation and the Chinese are reckless. He therefore finds it possible and desirable to achieve a general detente with the Russians, even if he does not advocate an alliance with the Russians against the Chinese. But has he really built his case properly? We have already considered many aspects of that case. We may now consider the final ingredients—ingredients which this time do exist but whose combination in a stew may not produce an edible dish. I agree with the Senator that it is unlikely that we can win the cold war completely or end it immediately and that good and evil are not absolutes. But I do not understand what relevance these comments have. Hitler was good to his dogs. One could even argue for some of his social policies. Genghis Khan undoubtedly had some redeeming features. No doubt St. Francis of Assisi had some very undesirable characteristics. Evil will never be eliminated from the world nor will good ever reign supreme. But not even Barry Goldwater wanted to unleash SAC against Moscow. And if a new Hitler had a big nuclear force, we undoubtedly would think twice about unconditional surrender.

* * * * * * *

EXHIBIT D.—NEWSPAPER ARTICLES

[From the Washington Times, Aug. 24, 1982]

CHINA BLASTS 4 PRO-TAIWAN SENATORS

PEKING (UPI)—China called four U.S. senators "impudent" for their criticism of the new Sino-U.S. joint communique on reducing arms sales to Taiwan and said they know "nothing" of international relations.

The official Xinhua News Agency blasted remarks by Sen. Barry Goldwater, R-Ariz., an unwavering Taiwan supporter, and three other conservatives on the arms question: John Glenn, D-Ohio; John East, R-N.C.; and Jesse Helms, R-N.C.

"Knowing nothing about the elementary principles governing international relations," the four senators are "so impudent as to come out to attack the communique," Xinhua said.

Peking, which considers nationalist-ruled Taiwan a province of China, views the arms communique as the initial step in ending the sales. Washington, however, interprets the accord as pinning the issue to China's continued pursuit of a peaceful rapprochement with anti-communist Taiwan.

U.S. Embassy sources in Peking said the Reagan administration believes the wording of the new pact allows the United States enough flexibility to ensure Taiwan's security.

To pacify the Nationalist Chinese government on Taiwan and its U.S. supporters, the administration has notified Congress of its plans to continue co-production of jet fighters with the island.

The criticism coincided with the conclusion of talks between the Chinese and a French delegation on supplying reactors for China's first nuclear power station.

Westinghouse Corp. produces the pressurized water reactors China is seeking but U.S. companies are barred from selling nuclear materials to the Chinese because Peking has refused to sign the Nuclear Non-Proliferation Treaty.

In another development, China struck a bitter blow against its gigantic bureaucracy yesterday, reducing the number of sub-Cabinet agencies from 23 to 15 in the second such move this year.

Xinhua said the eight agencies being disbanded will be consolidated with those that are left.

A resolution on the realignment was passed by the Standing Committee of the National Peoples Congress. The committee is in charge of parliamentary affairs when the congress is not in session.

The State Council, China's Cabinet, originally had 41 agencies to oversee a broad range of activities touching on such areas as the economy, aviation, the media and tourism. A realignment earlier this year reduced the number to 23 bodies.

"According to the plan approved this time, 15 institutions out of the 23 left will remain and the other institutions will merge into others," Xinhua said.

The disbanded agencies were not identified.

[From the New York Times, Aug. 26, 1982]

TAXES AND TAIWAN: SOME SEE A MOVE TO THE LEFT

(By Hedrick Smith)

WASHINGTON, August 25.—President Reagan's ardent advocacy of the tax-increase bill and his willingness to see arms sales to Taiwan reduced over the long term have left both conservatives and moderates suggesting that the Reagan Presidency has now taken on a more pragmatic and moderate cast, although the White House discounts a major shift.

Under a heading "Is Reagan changing partners?" the latest issue of Human Events, the right-wing conservative weekly, voices the fear that "any lingering hopes for some kind of 'Reagan revolution' in our politics have been laid to rest" by what it calls the President's two major policy reversals.

The Conservative Digest, in a still incomplete poll of 2,000 of its readers, has found that they believe, by a margin of about 7-to-1, that Mr. Reagan has moved to the left and that if "a solid conservative were available to run" for President in 1984, they would prefer that Mr. Reagan not run again.

On the other side, Representative James Leach, a moderate Iowa Republican, suggested in his latest newsletter that the tax and Taiwan decisions "may well come to symbolize the maturation of the Reagan Presidency." These actions, he said, indicate that domestic policy will be guided by "economic pragmatism" and foreign policy "by practicality and restraint rather than ideology."

"ROOM TO MANEUVER"

Other moderate Republicans, including one close to the Senate leadership, take comfort that in the tax battle, which they regarded as "a fight for Reagan's political soul," the President showed that he was "not going to be controlled by the hard right but had found room to maneuver with the political mainstream."

In his first 18 months, Mr. Reagan stuck basically to the conservative orthodoxy that he espoused in the 1980 campaign, making only modest concessions. But in both the tax and Taiwan decisions, he made major compromises for the sake of broader policy goals.

Senior White House officials contend that there has been no basic shift in the Reagan Presidency. James A. Baker 3d, Mr. Reagan's chief of staff, called the tax vote a "legitimate, onetime difference" with the hard-core, Reagan conservatives, and predicted that the old Reagan political coalition would regroup when Congress returns in September.

"I don't think the President has changed," he said. "We're going to be back in September talking about holding down the level of spending and we hope our conservative friends will be with us on that."

Mr. Reagan moved quickly to heal the breach by suggesting immediately after the tax vote that the conservatives put that battle behind them. And in a symbolic gesture at a Republican rally in Los Angeles Tuesday night he took a pot shot at Senator Edward M. Kennedy, the Massachusetts liberal.

In the fall, White House aides note, Mr. Reagan will be pushing for a constitutional amendment to balance the budget, as well as for restoration of prayer in schools, and tuition tax credits, all cherished conservative aims.

COURSE ON CENTRAL AMERICA

Nonetheless, politicians of both right and left contend that there is longer-term significance in several recent actions that display greater pragmatism and realism in tone and tactics and sometimes on substance. The basic thrust of the Reagan Presidency remains constant, but the President has initiated the potential for future compromise and bipartisan cooperation and thus subtly changed the dynamics of his Presidency.

On Central America, for example, a policy speech last Friday by Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, took a decidedly less confrontational approach than was typical under former Secretary of State Alexander M. Haig Jr.

Although Mr. Enders stressed support for the Government of El Salvador, condemned the move toward "a new dictatorship" in Nicaragua and restated the American demand that Nicaragua end support of the Salvadoran guerrillas, his tone emphasized moderation and possibilities of political compromise.

He paired the "violent right" with the "violent left" as "extremist minorities" in Central America; urged the Salvadoran Government to "act with speed and imagination" to try to draw left-wing insurgents into the democratic process, emphasized "the constancy of our interest" in human rights and urged limits on the flow of heavy weapons into the region and the elimination of foreign military advisers on all sides.

TAIWAN ACT TERMED BETRAYAL

When Mexico ran into financial difficulties, the Administration was very quick to sense the danger and to respond immediately, despite its past differences with Mexico on Central American policy and reportedly without seeking political concessions.

The shift on China and Taiwan was more substantive because of Mr. Reagan's longtime commitment to the defense of Taiwan. Although Congressional conservatives have said little publicly, some have been dismayed by what the weekly Human Events called the "betrayal'" of Taiwan by the Administration's "groveling" pledge to Peking to "reduce gradually" American arms sales to Taiwan.

The Administration's response is that long-term arms policy toward Taiwan was carefuly linked to Peking's commitments to peaceful reunification with Taiwan. Moreover, the pragmatic calculation was that progress on this issue is essential to continued American-Chinese collaboration, which serves Washington's interests in the global rivalry with Moscow.

Administration officials are quick to point out, moreover, that Mr. Reagan has so far neither bent nor shifted ground on other hallmarks of policy—his drive to cut Federal spending, his commitment to rapid increases in military spending, his opposition to Western Europe's natural gas pipeline deal with the Soviet Union and his insistence that genuine arms control requires sharp arms reductions.

Politically, it is nothing new for Ronald Reagan to combine firm, ideological positions with periodic compromises. In his eight years as Governor of California, he not only presided over the largest tax increases and budgets in state history but also compromised with the Democratic majority in the State Assembly to gain passage of changes in the welfare laws. Already, his drive to curb the growth of Federal spending has gone a considerable way toward achieving the fundamental change in domestic social programs promised in the 1980 campaign.

CONSERVATIVES UNAPPEASED

White House officials seem to take it for granted that the Reagan Presidency will also undulate between pragmatism and purity. The President himself is fond of telling his most doctrinaire loyalists that it is sometimes better to settle "for 75 or 80 percent of what you want than try for 100 percent and fail." He used that argument with Republican conservatives on the tax bill.

But that does not appease dismayed conservatives. "We thought that Lyn Nofziger was right when he said that Reagan is more ideological now than he was as Governor, whether as a benefit of age or office, since he has no higher office to seek now," said Thomas Winter, editor of Human Events, referring to Mr. Reagan's former political adviser. "So it is disillusioning it hasn't worked out this way."

To the White House argument that things will be different when Congress returns after Labor Day, conservative Congressmen and their spokesmen acknowledge that the pressures of an election campaign and the need for new spending cuts will probably restore the old Reagan conservative coalition. They also expect some symbolic gestures from the President, but they fear the breach will be reopened early next year when a new budget, and perhaps another tax increase, must be prepared.

"The history of conservatives' relations with Ronald Reagan is trying to hold his feet to the fire he himself lit," said John Lofton, contributing editor of Conservative Digest. "I wish the tax and Taiwan decisions were just tactical moves that did not have to do with principle, but I feel a big change."

[From the Washington Times, Aug. 30, 1982]

REAGAN'S U-TURN ON U.S.-CHINA POLICY

(By M. Stanton Evans)

While everyone was debating whether the Reagan administration had reversed its field on economic matters, it decided to plunge ahead with a sharp U-turn on U.S.-China policy.

After pledging that it would stand by our commitments to the government of Free China on Taiwan, the administration released a "joint communique" with Peking, promising to cut back on arms sales to the Free Chinese. This move goes counter to the campaign rhetoric of candidate Ronald Reagan, and also to the legal obligations of our government under the Taiwan Relations Act.

The TRA was passed in 1979 as a condition of severing relations with Free China, renouncing our mutual treaty of defense and establishing diplomatic ties with Peking. It commits us to supply Taiwan with the arms it needs for its defense. Such assurances were necessary to get the Senate to go along with Jimmy Carter's policy of nuzzling up to Peking.

The communists, of course, don't want us selling weapons to Taiwan, and have demanded that we cease and desist. Rather than telling them that our policy and our legal obligations on this matter are firm, the State Department has been hard at work to weasel around the TRA and give Red China what it wants. The new communique is a product of this diligent campaign.

This statement has the U.S. government saying that "it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years . . . and that it intends to reduce gradually its sales of arms to Taiwan, leading over time to a final resolution."

This language is on the face of it a commitment to limit and wind down our arms sales to Free China, which means it is also a violation of the Taiwan Relations Act.

It is a culmination of the long-running effort of Peking and the State Department to create a skein of documents that wire around the TRA.

Sen. Barry Goldwater, R-Ariz., puts it succinctly:

"The joint communique is a bad agreement that demonstrates the influence and duplicity of the permanent bureaucracy at the State Department. It harms Taiwan and violates the Taiwan Relations Act . . . there is nothing in the act that reduces or limits the quality or quantity of our arms sales to Taiwan. Our sales depend solely on Taiwan's defense needs. If her needs increase, the quality and quantity of sales shall increase."

Reagan officials have been busily reassuring friends of Taiwan that the communique is not a sellout—that it is, indeed, a triumph of American policy. The President says the communique was signed in the "expectation" that Peking would try to resolve its differences with Free China peacefully. Yet when questioned about the matter, administration spokesmen conceded the communists have made no such commitment (we had reportedly sought such language in the communique).

The best the administration can come up with is that our pledge to limit and cut back on arms sales to free China actually will hinge on peaceful conduct by Peking. But that isn't what the agreement says. It simply states that we "have in mind" some verbiage by the communists promoting a so-called "peace plan" already rejected by Taipei, which everyone knows full well is empty rhetoric.

What if our "expectation" is disappointed, Peking launches a further military buildup, and Taiwan again requests an advanced fighter plane (a request we have already turned down)? How do we justify selling such a plane when we have explicitly committed ourselves, without conditions, to no upgrading of weapons sales, either in quantity or quality? The administration answer: We just would.

On its wording, the communique is a near-total victory for Peking, which has committed itself to nothing, while we have forked over 90 percent of what the communists have been asking. A further step on the road of modern-day appeasement, it conveys an unmistakable message to the world: Bullied enough by its enemies, the United States eventually will desert its friends.

[From the Washington Post, Sept. 1, 1982]

TAIWAN: THINGS HAVE CHANGED

(By James J. Kilpatrick)

In the melancholy matter of Taiwan, let us begin with two propositions. The first is that President Reagan is sincere in what he says. The second is that he is capable of reading and understanding the English language. The trouble is, the two propositions cannot be reconciled.

Unlike some presidents we have known, Reagan is quite incapable of telling a deliberate lie. When he told Dan Rather that the joint communiqué of Aug. 17 made "no change whatsoever" in the situation, he believed he was telling the truth.

Yet if we compare the plain language of the Taiwan Relations Act with the plain language of the communiqué, it is apparent that a change of major significance has in fact taken place.

The Taiwan Relations Act, which became law on April 10, 1979, says: "The United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability. The President and the Congress shall determine the nature and quantity of such defense articles and services based solely upon their judgment of the needs of Taiwan, in accordance with procedures established by law."

Now, consider the language of the joint communiqué just announced between the United States and the People's Republic of China: "The U.S. Government states that it does not seek to carry out a long-term policy of arms sales to Taiwan, that its arms sales to Taiwan will not exceed, either in qualitative or in quantitative terms, the level of those supplied in recent years . . . , and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution."

What are we to make of this? The Taiwan Relations Act clearly envisions that the defense needs of Taiwan will not remain static. The needs may diminish. They may increase. The "nature and quantity" of arms sales will be adjusted not only by the president but also by Congress. Nothing in the act suggests or implies that Congress intended gradually to reduce or phase out these sales.

This whole regrettable incident strikes me not as outrageous or duplicitous, but simply as inexplicable. Reagan sincerely believes that nothing has changed, but unless words have lost their meaning, things have indeed changed. The president has committed us eventually to stop aiding the defense of a small but loyal ally.

This too is disturbing. Under the joint communiqué, the United States pledges that it will not "pursue a policy" of "one China, one Taiwan." The idea of a separate and independent Republic of Taiwan is an idea whose time should have come long ago. The surviving Nationalists of Taipei resist the idea, and Peking rejects it out of hand, but the prospect makes geographical and ideological sense.

For the moment, as a practical matter, perhaps nothing has changed. The Communist government is not about to attempt an amphibious invasion of Taiwan. A relationship that has lasted for 30 years could last another 30 years. The joint communiqué, thus seen, is a disappointment. It is not a disaster.

[From the Washington Times, Sept. 1, 1982]

Placating Peking, Two-Timing Taipei

(By Ray Cline)

The White House communiqué of Aug. 17, 1982, on China policy reflects the tragic Washington predilection to sacrifice long-term priniciple to short-term political expediency and diplomatic double talk.

The communiqué is full of fuzzwords and obsequious language plainly drafted to placate the Chinese communists. It is sweet-talk for Peking, double talk for Taipei and Washington. If the words mean anything, they go a long way towards undermining the security of the 18 million Chinese of Taiwan.

They do not want their open society with a prosperous economy 10 times as advanced as the impoverished People's Republic of China to become part of a Soviet-model one-party dictatorship. They will fight to prevent it. They want American arms to defend themselves.

All Peking's leaders want is Taiwan, a juicy geostrategic and economic plum. They say the Chinese citizens of the Republic of China on Taiwan have no choice but to submit to Peking's rule. They have demanded that American sales of arms to defend Taiwan's freedom be stopped so Taipei will be powerless to resist.

The PRC leaders never have offered to do anything for the United States, which they routinely criticize as a hegemonistic superpower. In 10 months of eyeball-to-eyeball negotiation they simply threatened to denounce Reagan and distance themselves from the United States. The White House caved in to this blackmail.

President Reagan personally values the achievements and the loyalty of our old friends of the Republic of China, but he wants no more trouble with Peking when he has plenty on other issues. Thus he was gradually pressured by his Sinophile, anti-Soviet Bureaucracy into accepting the key language of the communiqué. It is: "the United States government states that it does not seek to carry out a long-term policy of arms sales to Taiwan . . . and that it intends to reduce gradually its sales of arms to Taiwan, leading over a period of time to a final resolution."

This flat commitment flies in the face of what appear to be iron-clad American guarantees to sell arms to Taiwan as long as needed for self-defense. Shortly after President Jimmy Carter abruptly established diplomatic relations with the People's Republic of China, Congress passed and Carter signed the Taiwan Relations Act of 1979, guaranteeing the Chinese on Taiwan "defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficient self-defense capability." Ronald Reagan as a candidate and as president wholeheartedly endorsed this security guarantee. He steadfastly asserts he still does.

Most Asians, however, indeed most American allies, are likely to think instead that the mighty United States has kowtowed to Communist China, tacitly accepting its claimed right to govern Taiwan and take control by whatever methods prove necessary, including military force. They will see a tilt toward communist dictatorship—against a free economic and political system.

To appease Peking in this way and implicity encourage the PRC to try once again to seize Taiwan is to insure another bloody war in Asia. Americans tend to forget that the two costly wars in which American forces have fought since 1945 have been in Asia, with Communist China on the other side: In Korea in the 1950s and in Vietnam in the 1960s.

Reagan's balanced policy of dealing with both Taipei and Peking is being undercut dangerously by the deliberate ambiguities and outright concessions to the PRC in the Aug. 17 communiqué.

Twenty years ago, when I was CIA Deputy Director for Intelligence, President Jack Kennedy called me into the Oval office for a private talk about China. He asked: "Is there anything at all the United States can do to make Communist China less hostile and more cooperative?"

"Nothing," I said "unless you are willing to cut off support of Taiwan and facilitate Peking's military conquest of the island."

Kennedy promptly responded, "That we can never do! Not only would it be totally dishonorable; it would destroy our credibility with every friend in the world who depends on us for security."

I agreed. I still agree. Every president of the United States since Dwight Eisenhower—even Jimmy Carter—pledged not to "jeopardize the well-being of the people of Taiwan."

Now Reagan, the least likely of all to sellout Taiwan intentionally, may have done so in fact. Unless it is made clear soon that U.S. arms sales to Taiwan will be extensive and of high quality, the long-term prospect for Free China's survival will be clouded.

[From the Washington Times, Sept. 7, 1982]

TAIWAN VS. PEOPLE'S REPUBLIC: LOOKING TO HISTORY

(By Frank Creel)

The administration's recent communiqué with the People's Republic of China on the question of future arms deliveries to Taiwan provoked considerable criticism and debate. But not yet enough.

Missing in the debate so far are an adequate appreciation of the historical depth of the problem and, related to the same lack, a satisfactory recognition of the essential volatility of ideological forms. The advocates both of normalizing U.S. relations with communist China and of preserving our alliance with Taiwan are open to this charge.

Those who favor shunting Taiwan into the geopolitical backwaters for the sake of improved relations with the "real" China had their reasoning aired eloquently by Sen. Henry Jackson earlier this year on national television. The U.S. should arrange its policy, said Jackson, in a way which will minimize the danger that we will awaken some morning to discover a major shift in the balance of power. Communism riding astride militant Chinese and militaristic Russians is too close to an insuperable force in the view of such Americans.

Opposed to this view are those who see Taiwan as the unsinkable aircraft carrier and (if we betray it) as a lethal albatross around the neck of our credibility as an ally.

It would be useful for both aides to remember that Chinese history did not begin in 1949 A.D. and that Sino-Russian conflicts extend well back into czarist times. Americans need about 48 more centennial celebrations to match the recorded Chinese capacity to move safely through history, and if the Chinese are to duplicate their own feat in coming millennia, it will almost certainly be with the prickly Russians as their closest and most formidable rival.

Therefore, to worry about sudden shifts in the balance of power because of an historically superficial commonality of ideological perspectives (still far from filling a single century for either Asian power) is almost to subscribe to the determinism which is the outstanding feature of that feared ideology.

History since Marx, however, has shown nothing so strongly as how mistaken he was in his deterministic postulates. It is a reflection only on the limited sweep of Sen. Jackson's vision that he could utter this fear at the same time he knows as well as anyone, for example, the necessity of Israel's assent to any comprehensive settlement of Middle East issues and of Polish and Afghani approval of any political scheme to allay certain Soviet security concerns. What makes him think that any combination of Russian cannon and Chinese cannon fodder could impose its will on America, or even Taiwan, without our consent?

For those who oppose a sellout of Taiwan, the fear of this combination of communist giants is more a suspicion of its inevitability. The unsinkability of Taiwan joins the ultimate solidarity of communist Russia and communist China (and the irredeemability of either) as an article of faith. Perhaps.

My own view is that both of these positions betray an unedifying lack of traditional American optimism and an unsustainable assumption of Marxist appeal over the claims of nationalism. Whether or not the word is currently used as much as it used to be, "containment" remains the paramount feature of American policy towards the spectre of communist expansionism. Implicit in that policy is the hope that latent nationalist forces will eventually subdue the bankrupt dogmas of Marx and his 20th-century apostles. It is not an unreasonable hope, and thinking of Taiwan as an aircraft carrier (for what, if not the unavoidable task of destroying Chinese communism by military force?) suggests too strongly that it is.

Robert Fraser's *"The Chinese: Portrait of a People"* reports the view of a Chinese intellectual (with good communist credentials) that if China really wanted to "establish a true communist state, we must allow capitalism to run its natural course . . . (for) one or two hundred years . . . Maybe three hundred years. That's a very short time in China's history."

It would be a mistake to make too much of this. It is a worse mistake to make too light of the possibilities it suggests. Both sides of the recent debate err in the latter respect; but it is only the friends of Taiwan who, by deepening their perspective and ridding themselves of their pessimism, can claim true friendship with those Chinese who yearn both for unification and freedom.

[From the Washington Times, Sept. 9, 1982]

REAGAN CHARGED WITH REVERSAL ON TAIWAN

(Interview—National Director of The Conservative Caucus Howard Phillips on America's commitment to Taiwan.)

Like many of his peers, National Director of The Conservative Caucus Howard Phillips is outraged over last month's presidential communique downgrading America's relationship with Taiwan over the next two decades. Phillips claims the communique is not only a reversal of form for President Reagan, but poses a grave threat to America's defense in the Pacific.

Phillips, 41, was acting executive director on the President's Council on Youth Opportunity, acting director of the Office of Economic Opportunity and in 1974 became national director of The Conservative Caucus, Falls Church, Va. He also served as president of the Conservative Caucus Research Analysis and Education Foundation and is on the Board of Directors of the Young Americans for Freedom. He has written and published extensively and lives in Vienna, Va., with his wife Margaret and their five children.

Phillips was interviewed by Mike Chinoy, a reporter for NBC Radio News, Hong Kong, and Kevin Delany, director of news coverage for Asia, ABC Radio News, Hong Kong, in Hong Kong on Aug. 20. Excerpts of that interview follow.

Q: Will the Taiwan arms sale business be an issue in the fall elections? Are there plans to try to put across Taiwan's position more forcefully?

A: I think, in a sense, the recent Taiwan communique offers an opportunity for conservatives to reopen the question of the U.S. relationship with the Republic of China. During the 1980 campaign, President Reagan made a number of promises with respect to the Republic of China. The Republican Platform, for example, said that priority consideration would be given to Taiwan's defense requirements, and on August 25th President Reagan indicated in a well-known statement that Taiwan would play a role in developing western Pacific cooperation. He said there would be no foreign interference in carrying out the provisions of the Taiwan Relations Act. He also said he would eliminate petty practices governing the relationships between the United States and Taiwan.

Thus far, he does not seem to have kept thos promises and I believe that conservatives, who are basically quite trusting of President Reagan, now have their attention focused on the possibility that the president may not have control of the situation and, to the degree that we can stimulate a debate on the issue between now and the election, we have a particularly good opportunity to reverse the trend which is reflected in the communique.

Our concern is that the Reagan Administration policy is premised, not on the just interests of the United States, but on a fear that Red China will downgrade its relations with the United States. We think that the security and prosperity of 18 million people on Taiwan is much more significant than the possibility that the Red Chinese might in some way embarrass the Reagan Administration by that type of behavior.

One of the conclusions that we have reached is that it is necessary to go to the American people with the story of Free China. The Republic of China has been reluctant in the past to be too forward in telling its remarkable success story and to the degree that it has told its story in the United States, it has largely restricted its efforts to government officials. It has worked with members of Congress, members of the Senate, people in the Executive branch. On the other hand, the Red Chinese, through the visits of Deng Xiao-ping and others, have gone over the heads of the government officials to try to develop a favorable image of their country among the American populace.

We think that the tremendous progress toward democratic procedures and economic prosperity on the island of Taiwan by the government of the Republic of China is a story that has been kept in the closet, and we think that the key to the closet door would be a visit to the United States by a ranking official of the Free Chinese government.

Q: Who might that high-ranking official be and do you think you can overcome any State Department objections?

A: There are a number of extremely impressive and articulate Free Chinese leaders, such as the Premier, Mr. Sun.

With respect to the possibility that the State Department might seek to discourage such a visit, I think any public indication of that possibility would be highly offensive to the spirit of fair play of the American people. At a time when Soviet-backed terrorists are given access to the United States from organizations such as SWAPO and the Palestine Liberation Organization, I hardly think that the Reagan administration or the State Department would take the risk of offending millions of Americans by denying free access to a free country by a leader of a free people.

Q: How upset are you with the communique on arms sales?

A: I think the communique is an outrage. I think it is a clear violation of the commitments that President Reagan made during the 1980 campaign and it places at risk the security and independence of 18 million people on Taiwan. Frankly, I do not think President Reagan realized the implications that were carried forward by the communique. I think that in his heart he is genuinely a friend of Free China, but I think he was convinced that he could have his cake and eat it too. I think he was convinced that he was not placing at risk any important right of the Free Chinese in his effort to appease the sensibilities of the Red Chinese.

But, the fact of the matter is that, while I hope President Reagan will be reelected to another term in 1984, he is not going to be there forever, and the implication of the communique, clearly stated in plain English, is that the United States will not sell weapons to Free China of a quality or in a quantity greater than that now being provided, and, as technological progress is made by the mainland, and as they match their overwhelming numerical superiority with increasing technical competence, then the ability of the Free Chinese to protect the Taiwan Straits, which are essential to the defense of Taiwan, will be diminished.

That will have a tremendous psychological impact, an adverse impact, on Taiwan and even now, I am sure, it will cause businesses seeking to invest in Free China to give second thoughts to such a possibility.

Q: You delivered a letter when you were in Taiwan from nine Senators discussing the possibility of inviting the president of Taiwan to the U.S. Can you say something about that?

A: I have no doubt that there are a number of members of the United States Senate who would be eager to play host to a ranking official of the Free Chinese government were such an official to come to the United States.

My own view is that the Reagan Administration may well be in as good a position to reconsider its course now, in the period prior to the November elections, as at any subsequent time. There is a real possibility that President Reagan will suffer some electoral setbacks in November that would diminish the likelihood of his making major changes in policy at that time.

In addition, I am not personally encouraged about prospects for economic improvement in the country for 1983. I think the recently approved tax hike, coupled with the massive budget deficits and increases in nondefense spending, the heavy government borrowing, and the likelihood of currency inflation will contribute to high interest rates and economic stagnation, and will further diminish the possibility of President Reagan making significant changes in policy after November.

So, I think we have to strike while the iron is hot and do everything we can to encourage President Reagan to follow his own instincts rather than respond to the options that are placed before him. The Red Chinese, by means of their pressure, by means of the sympathetic view toward them held by ranking officials of the State Department, have placed great pressure on president Reagan to acquiesce in the demand that the United States limit future sales of arms to Free China. I think it is necessary for the friends of Free China to create a countervailing reality to which the President must respond so that one of the options that he considers in the future is the option of dealing directly, on an official basis, with Free China and of giving priority consideration to Taiwan's defense requirements as the 1980 Republican Platform promised.

Q: Do you think the Taiwan leaders would be more receptive to a U.S. visit now, after the communique, than they might have been before?

A: I think it is clear that the Free Chinese are surprised that Ronald Reagan has not been a better friend to them. Even Jimmy Carter indicated that he would be agreeable to selling the F-X to Free China and Ronald Reagan has only been willing to sell the F-5E. Under Jimmy Carter the military sales to the Republic of China totalled something like $241 billion and in a comparable period of time the sales from the Reagan Administration have been less than that.

[From the Washington Times, Sept. 15, 1982]

PEKING GOT SO MUCH FOR SO LITTLE

(By Martin Lasater)

The recent communique between the United States and the People's Republic of China demonstrates once again why Washington, relying upon Peking to counterbalance the Soviet Union in East Asia, is in an untenable position. As long as this misperception remains fixed in the minds of U.S. policymakers, we can expect this and future administrations incrementally to withdraw support from Taiwan.

President Reagan summarized the prevailing view in his statement accompanying the communique: "Building a strong and lasting relationship with China has been an important foreign policy goal of four consecutive American administrations. Such a relationship is vital to our long-term national security interests and contributes to stability in East Asia. It is in the national interest of the United States that this important strategic relationship be advanced."

In principle, one cannot argue with the president's position, but Peking's refusal to renounce the use of force against Taiwan makes his statement fundamentally at odds with the Taiwan Relations Act—which he also supports—committing the United States to the security of the people of Taiwan.

Domestically, the inflated perception of China's strategic value places the United States in a kind of double jeopardy: it gives Peking carte blanche in determining the course of future Sino-American relations, and it instills a false sense of confidence in our own security.

Diplomatic observers have noted in recent months a deliberate attempt by the PRC to distance itself from Washington. This has been reflected in three principal areas: quiet moves to relieve tensions between Peking and Moscow, criticism of U.S. policies in the Middle East and elsewhere, and efforts to reassume leadership of the Third World.

For numerous reasons, Peking has decided that its interests do not lie in an anti-Soviet entente with Washington, Tokyo, and Western European capitals. Apparently, some of the president's advisors believe that this trend can be reversed by giving ground on Taiwan, but such is not the case.

China is intent on carving a major, independent role for itself in world affairs. Aligning too closely with the United States on strategic matters, while mutually beneficial in specific instances, would be counterproductive to Peking's larger objectives. At best, we can expect Peking's cooperation against the Soviets when China's security is threatened. A Sino-American military alliance, however, is out of the question.

But neither should the United States fear a return to the days of a united Sino-Soviet bloc. Given its concern with the economic development of Siberia and the long-range threat posed by a modern China, the Soviet Union will continue to deploy a significant portion of its armed forces within striking distance of China's vulnerable Sinkiang, Shenyang, and Peking provinces.

If the PRC is no longer interested in entering a strategic alliance against Moscow and the Soviet Union can be expected to keep its Far Eastern forces in place, the administration's statement of intention to limit and eventually end arm sales to Taiwan makes a little sense. The communique does nothing to improve our national security, but it does a great deal to undermine Taiwan's.

It is too late to alter the communique. But, as Peking itself says, the accord "only marks the beginning of the settlement of this issue." Already laying the groundwork for a confrontation over the TRA, the People's Daily promised that "Should the policymakers in Washington insist on handling the relations between the two countries according to this internal law, Chinese-United States relations, instead of being further developed, will certainly face yet another grave crisis."

One must wonder when Washington will call a halt to this endless process of concessions over Taiwan. The PRC, whether under the leadership of pragmatists such as Teng Hsiao-ping or radicals such as the Gang of Four, will not easily let go of a good thing. After all, where else but in negotiations with Washington can Peking gain so much for so little.

[From the Washington Times, Sept. 17, 1982]

DEFENDING TAIWAN, DEFENDING CHEESEBURGERS

(By Fred Reed)

Writing a column in defense of Taiwan is like doing battle to preserve the reputations of cheeseburgers, tabby cats, or Nebraska; you wonder why you should have to do it. I mean, Nebraska is just sort of a generic state with, so far as I know, no particular characteristics. It just sits there and grows cattle (I think). It shouldn't need defending.

Now the fact is that Taiwan just sits there, behaves well as Third World nations go, makes money, and doesn't invade anybody. If it didn't have totemic importance to the warring self-absorbed tribes of the political left and right, no one would give the faintest damn about Taiwan. But it is a totem. Consequently it drowns in praise and odium, equally unfounded in fact, and uttered by partisans who couldn't name two of its cities.

I rather like Taiwan, having spent enough time in the Far East to know when people are well-off and when they are not. I also find myself growing impatient with the duplicity of the anti-Taiwan lobby, which denounces in Taiwan evils which pass unnoticed in nations it favors. Rank intellectual bunko is the foundation of political thought; still, if we are going to measure Taiwan by liberal standards—which aren't bad standards really—let us apply them consistently: that is, equally to Taiwan and, say, China and the U.S.S.R.

To begin, Taiwan is a dictatorship. So are China and Russia; there is no difference on this score.

The press in Taiwan is sort-of censored. You can buy *Time* and *Newsweek* freely, which is hardly consistent with serious censorship, but an occasional issue or story will be banned. Television's coverage of world news is reasonably straight, except when it deals with mainland China. It then becomes hard-line propaganda. Editorials are the pure governmental line. Slogans are posted everywhere in large characters ("Follow the Three Principles of Sun Yat Sen").

By contrast neither Russia nor China allows the sale of international news magazines. I have watched television in neither country, but reports in the press say it is badly distorted. Like Taiwan, both countries stick slogans and pictures of leaders everywhere.

Taiwan allows unrestricted travel by foreigners and makes no attempt at all to keep its people from associating with them. Tourists and students get long-term visas without difficulty. You can live anywhere you want. Marrying a girl in Taiwan is no trouble; that is, you have to persuade her, but not the government.

None of this is true in Russia or China.

Political freedom is almost nonexistent in all three countries.

Taiwan provides a vastly higher standard of living for its people than does China. Well-fed Americans of liberal tendency tend to dismiss material prosperity as . . . well, merely material. (Actually they regard prosperity as terribly important for India, but as merely material in right-wing countries.) I invite them to build a grass hut in the back yard and live in it for a month, eating thin rice gruel and never changing clothes; to add realism, they should eat not-quite-enough rice gruel. Lice would help. So would sub-clinical pellagra. Afterwards they would be better qualified to hold forth on the mereness of material well-being.

People in Taiwan work like dogs for what they get—12 hours a day is not uncommon, and some people just can't take days off. Still, they have the cameras, bluejeans, cars, motorscooters, stereos and what-not that people everywhere seem to want.

I can't compare standards of living in Taiwan and Russia. I haven't been to Russia. Judging by news reports, Taiwan may actually be better off—which is preposterous given Russia's advantages. In Taiwan food is plentiful and varied, there are no lines, consumer goods of all kinds are everywhere, cars are much easier to come by.

As I say, there should be no reason to write columns in defense of Taiwan. It is a drab, authoritarian, prosperous, and competently governed little country, doing better by its people than four-fifths of the world's countries.

Still, if we choose to damn Taiwan of its sin, let us also damn those that sin more. Let us henceforth sever relations with Moscow and Peking. The justice of this is so manifest that I expect the ADA to rise as a man to second the proposal.

[From Heritage Foundation's National Security Record, September 1982]

THE TAIWAN SHOCK

Members from both parties of Congress and their staffs are considering legislative or other actions to reaffirm the United States' commitment to Taiwan in the face of a major foreign policy decision by the Reagan Administration to eventually discontinue American arms sales to Taiwan. Legislators feel the President's actions were in direct violation of the Taiwan Relations Act which provides for arms sales based solely on the defensive needs of Taiwan. It also signals a retreat by the President from his pre-election determination to provide support to the ROC as indicated in the July NSR.

Public support for an increased congressional role in formulating policy toward Taiwan is reflected in the results of a poll recently conducted by Sindlinger & Co. for the Heritage Foundation, in which 88.5 percent indicated the President should consult with the Congress before making any changes in the relationship between the United States, the PRC and Taiwan. The failure to consult Congress on this issue has angered an impressive bi-partisan group of Congressmen. Another revealing result from the Sindlinger poll deals with the status of Taiwan. Despite continued references to China, the American people believe by an overwhelming majority of 84.2 percent to 8.2 percent that Taiwan should be considered a separate country and not merely a province of China. This fundamental reality of recognizing the de facto division of China will remain a key element of the continuing debate over Taiwan.

[From the Washington Times, Oct. 4, 1982]

(By Julian Weiss)

TAIWAN'S BATTLES

The Republic of China fights an internal war that is overlooked in the midst of the curret geopolitical brouhaha. Its outcome is every bit as important to national survival as Peking's adventurism. The Island appears to be winning a struggle that has been lost in other developing countries—the inevitable life-and-death conflict between the forces of Westernization and traditional values.

Havoc results in developing countries when too many shrines are bulldozed to make way for fast food eateries. It's as if a whole nation went to bed in one century and awoke hundreds of years later—with insufficient sleep to overcome the inevitable trauma. A rush toward development tears at the roots of many societies. Young people leave villages and farms, hoping to find glittering city streets. Surges of sudden cash topple tradition from Bangkok to Burundi. Leisure time creates a new void, undermining ethics.

For Taiwan, the pace of economic expansion has been more of a gallop. The truly mixed economy, near-total employment, equitable income distribution, phenomenal growth rates, and triple A rating from the Bank of International Settlements are only a small part of the story. As the world's most trade-oriented country, with $45 billion in exports and imports equaling GNP, this outpost of freedom boasts per capita income in the $3,400 range.

Now that Taiwan has achieved prosperity, Taiwan's intelligentsia, largely trained in the United States, must reconcile two diverse lifestyles as they map out a blueprint for the decade . . . and beyond.

Family ties, work attitudes, and world outlook will be threatened by foreign values. A sense of national purpose holds the people together, but it will have to compete with "Western decadence." As more engineers, physicists, and specialists study in an ambiance dominated by our laid-back attitude, they will see the reins of tradition loosened. Our self-oriented, pleasure-seeking culture already has invaded the island Mind-numbing video games anesthetize a generation whose parents never had electricity. To be sure, the Chinese offer time-honored corruptions, but theirs exist within tenets of their social structure; ours change with passing fads. Theirs have permanence, ours sweep without direction. Ours intrude overseas because the West exports so much of what others need. We continue to colonize in the sense, and doings of Hollywood stars rank with a local coup d'etat as news.

Taiwan's real contribution is a merger of enterpreneurial free enterprise with socially-conscious public policy. It has happened because of the Confucian values that have survived, even as post-industrialization nears. Taiwan has given the world "capitalism with a human face," a unique egalitarianism unmatched anywhere around the globe.

Taiwan is determined to develop on its own terms, borrowing from outside and then modifying foreign innovations to suit Chinese needs. The island has left it's old agricutural and textile bases far behind achieving full industrialization. It devotes a growing share of resources to high-tech projects.

Computers have met Confucianism head-on in a silent, yet fierce, war that elsewhere leaves one side vanquished, the other vicotorious,. On this resilient island, however, there seems a hope of harmony.

[From the Washington Post, Oct. 10, 1982]

CHINA CRITICIZES REAGAN

PEKING.—China's official New China News Agency accused President Reagan of violating the recent Sino-U.S. communique limiting U.S. arms sales to Taiwan, citing his comments last Wednesday that an end to U.S. arms sales to Taiwan depends on China's peaceful reunification.

The news agency said Reagan "violated the Sino-U.S. communique in a statement by making China's peaceful reunification a prerequisite for an end to sales of U.S. arms" to the Chinese Nationalist government on Taiwan. The agency said the president had "arbitrarily linked U.S. arms sales to how China will achieve its reunification, an entirely internal affair of China."

China insists that it is committed to peaceful reunification but will not renounce force, if necessary, to recover the island. It considers U.S. arms sales to Taiwan a violation of China's sovereignty.

[From the Washington Times, Oct. 12, 1982]

REAGAN ACCUSED OF UNDERMINING ASIAN PEACE

(Interview—Gary Jarmin, National Director of the American Council for a Free Asia, on the U.S.-Taiwan Relationship)

The Aug. 17 joint communique between the United States and Peking continues to be a volatile issue. It calls for the gradual reduction of arms sales to Taiwan provided that peaceful conditions exist in the Taiwan Straits.

Gary Jarmin, national director of the American Council for a Free Asia, has been following events in that sector of the world for the past 12 years. He gives his views on the communique in an interview conducted by Times staff writer Ron Cordray.

Q: In your opinion, what are the immediate and long term effects of the communique on Taiwan?

A: Well in the short term, the effects probably will not be that significant except for maybe investments in Taiwan—the business climate in Taiwan may go through a very chilling cycle. Right now, a lot of people who had planned to invest may decide to withdraw investments, and it might be harder to entice new investments.

The long term effects, of course, are more potentially devastating because, first, it will weaken Taiwan's bargaining position. Should it go into negotiations with the Peoples Republic of China on reunification it will be at a tremendous disadvantage with a weaker military base to argue from, and without a strong commitment from the United States to its defense to bargain from. Secondly, it will only increase their vulnerability to a military option from Peking, and this communique could well enhance military options. My guess is, in the long run, it will give Peking the option to be more belligerent than more peaceful.

Q: Has Ronald Reagan switched his positions on Taiwan?

A: Ronald Reagan definitely has endorsed a policy that contradicts his positions and even contradicts what he currently says. I think the reason he bought this communique is that he was badly advise or had been given the wrong perspective on what the actual communique says and means and will do. He has been given, in essence, an understanding of the communique that he thinks is consistent with his commitments but in fact is very contradictory. And, unfortunately, I don't think the president really understands the fundamental contradictions between his policy and his commitments in the communique itself.

Q: What if Ronald Reagan believes he was misled—do you think he would change? Reopen negotiations?

A: Well I think the communique is water under the bridge. But how you implement the policy is the key question. And I think if the president is convinced that he was given the wrong understanding, that this communique is not consistent with his own personal beliefs, it may change the focus of how the United States obligates itself to the commitments contained therein.

Q: What is your understanding of Peking's understanding of the communique, as far as arms sales are concerned?

A: Well, Peking's understanding is clearly opposite to what we have been told by Assistant Secretary of State John Holdridge and others. Peking clearly insists that the communique means that the U.S. will definitely terminate arms sales to Taiwan. Peking has also stated clearly that they do not believe that this communique obligates them to a peaceful resolution. And they have made that clear in their own statment which came out saying that the United States has no right to ask China to make any commitment on the way in which the Taiwan problem should be settled, still less to demand that the Taiwan prnblem be settled by peaceful means as a precondition to the cessation of U.S. arms sales to Taiwan since it would constitute an interference in China's internal affairs to do so. They objected strongly to that language.

What we have is a situation where the administration is trying to sell to the American people and the Congress, as its strongest argument for reducing arms sales, the peaceful condition pledge. In fact it is its weakest argument because Peking has reputiated what the administration has already told us.

Q: What does the United States have to do to show the Taiwanese that this is not an attempt to abandon the Taiwan Relations Act?

A: Well, first of all I think that the United States has to maintain the commitment to sell arms to Taiwan indefinitely, and that is the most important aspect of our arms sales policy because it serves to be a deterrent to Peking. And if we end our arms sales, then the deterrent vanishes. Peking will feel that it has a stronger military option, which it will, of course.

I think that the most important question Congress has to deal with is its role in this affair and what powers does it have under the Taiwan Relations Act to insure that our commitments made under this act are followed and upheld.

Q: Okay, what is Taiwan's best course of action at this point?

A: Well, I think the most important thing is for Taiwan to reassert its long-term policy of refusing to negotiate with Peking for one simple reason: the great contradiction in this communique is that it's predicating peaceful conditions as the basis for gradual reduction of future arms sales.

If I was Taipei, recognizing that peaceful progress was going to lead to the termination of my arms, I would do everything possible to jeopardize any peaceful progress. So, quite frankly, I think that this administration has stupidly implemented a policy which, if anything, will guarantee the lack of peaceful progress, rather than the continuation of it.

Secondly, I think that Taiwan must reassert its principle of self-determination. I think that it's ridiculous for this government to be pressuring the Republic of China into reunification talks with Peking if it's going to result in a deal that is not to the wishes of the 18 million people of Taiwan.

Q: Outside of a reunification of all China, what are Peking's objectives?

A: I think Peking has a number of goals, but the chief among them is to be equidistant between Moscow and Washington, D.C., and to establish its own independent foreign policy line, and, hopefully, become a prominent third world socialist leader and power in Asia. Certainly by the United States caving in to their demands on this important issue—arms sales to Taiwan—they have achieved a lot in painting that preeminent position of being the power in Asia to be dealt with.

Secondly, I think that China clearly wants hegemony throughout Asia. I think that they are very much intent on projecting their influence and power beyond their own borders, which is a traditional Chinese preoccupation.

Q: Secretary Holdridge, at a senate hearing, said that if China wanted to take Taiwan, they could take it today. Do you agree with that?

A: Well, at best that's probably a half truth. I suppose, if Communist China wanted to launch an all out attack, it might very well succeed. The question is, why haven't they? The reason they haven't is because the United States has made a military commitment to Taiwan's defense, and that has served as a deterrent. Unfortunately, with this communique, we are gradually going to erode the deterrent.

Q: But isn't, as you say, "the deterrent" the potential of the United States stepping in militarily.

A: Well, if we cut off all arms sales—yes. Right now the deterrent is our commitment to sell arms to Taiwan, because by doing so we are automatically a part of the equation. And Peking of course does not want to take on the United States directly by attacking Taiwan.

Once we have reduced our arms sales, or terminated our arms sales, then the United States commitment to their defense ends subsequently, thereby enhancing Peking's military option to attack Taiwan without fear of reprisal from the United States.

Q: Are you saying that once arms sales end, and if mainland China attacks Taiwan, the United States will not intervene?

A: The only choice we have at that point is to interdict the forces of communist China with the Seventh Fleet, and at that point, the future president has to decide. It's no longer a question of arms sales anymore, it's a question of whether you want to fight directly, U.S. forces against Peking forces. I find it very hard to believe that a future president is going to want to undertake a direct military confrontation with the PRC.

Q: Has the public opinion regarding unification changed on Taiwan over the past decade since President Nixon's 1972 visit to China?

A: I don't think that there is a great public outpouring of sentiment or desire necessarily to reunify with the mainland. I think it's that most people in Taiwan realistically hoped to maintain their own freedom, their prosperity and their own democratic process. Of course they would like to see their compatriots on the mainland liberated.

But I think that most of them realistically think that will probably come about as a result of some internal revolt. Which makes Taiwan symbolically such a problem for Peking. As long as Taiwan is free and economically prosperous, as long as they are making tremendous strides in all fields of economic and political endeavors, they serve as an embarrassment to the absolute poverty and inhumane totalitarian oppression that exists on the mainland. That is why Taiwan is such a threat to the mainland. Because it serves as an alternative, legitimate symbol of progress and hope for the Chinese people.

[From the Washington Times, Oct. 25, 1982]

WEST'S "FEAR" SEEN A THREAT TO TAIWAN

EDITOR'S NOTE: Soviet dissident Alexander Solzhenitsyn in a weekend speech in Taipei warned Nationalist China not to rely on the United States for its future.

The Nobel prize winner said that Americans have "succumbed to general world trend to leave the Republic of China to its perils, to abandon it to its fates."

Taiwan must rely on itself for survival, he said.

In a lecture that was frequently interrupted by applause by an audience made up of mostly academics and students, the 65-year-old author also attacked the United Nations for ousting the Nationalist Chinese-government from the world agency.

Solzhenitsyn first challenged the conscience of Americans in a controversial speech at Harvard in 1978, and in his Taipei speech on Saturday he now challenges the conscience of the world to face up to the evils of the communist world.

This is the full text of the lecture, translated from the Russian with the approval of Solzhenitsyn:

For 33 years, Taiwan, I believe, has attracted, by its specific fate, the attention of many people throughout the world. I myself felt that way long ago. Three score countries have already fallen under the yoke of communism. Scarcely one of them has been fortunate enough to retain even a tiny patch of its independent national territory, where its state authority could continue to develop despite the disruption, and through comparison show the world the difference between itself and communist disorganization. In Russia, such a patch of land could have been Wrangel's Crimea. But lacking any external support and abandoned by its unfaithful former allies, it was soon crushed by the communists. But in China, thanks to a wide strait, a fragment of the former state became the Republic of China on Taiwan, which, for a third of a century, has proved to the world what heights of development could have been reached if the whole of China had not fallen under the yoke of communism. Today, the Republic of China on Taiwan differs from others in its development, its industrial achievements and the well-being of its population, thereby proving how logically the forces of a nation can be guided, if they are not in inimical hands.

It would seem that the population of our planet should clearly perceive such an instructive comparison and should have its eyes opened to see how peoples who escape communism flourish and how those who fall victim to communist tenets perish by the millions. The history of communist destructions in the Soviet Union, Poland and Cambodia are now known to all. The history of the millions destroyed in China, Vietnam or North Korea is yet to be revealed in detail, but many signs allow us to judge this history even now.

But no. It is free China which has had to endure and suffer from the greatest injustices and ignoble attitudes of other countries. The United Nations, long degraded to an irresponsible side show, disgraced itself by expelling from membership the 17 millions of Free China. The majority of countries on our planet treacherously expelled your country from the U.N., whose delegates, adding insult to injury, whistled, jeered, and shouted. The majority of Third World countries behaved like madmen who don't know the price of freedom but are themselves waiting for the kick of the boot.

For centuries the Western world has known very well the price of freedom. But with years passing and well-being achieved, it is less and less prepared to pay for it. The western people value their state systems but are less and less inclined to defend them with their own bodies. From decade to decade, the West has become increasingly senile and unable to defend itself. The betrayal of one country after another had already begun before the second world war. Afterward, no scruples were felt in abrogating the whole of Eastern Europe just for the sake of the West's own well-being. How easy it was to betray the government of Mikolaychik, how easy it was to withdraw support from one's ally Chiang Kai-shek. And soon we shall witness how one country will betray another for the price of surviving just a little longer. Should it be surprising that the majority of the frightened western countries are even afraid to sell you weapons for fear of angering Peking. That's how much their drive and concern for freedom is worth. Meanwhile, threatened Europe should understand your position better but is so cowardly that is fails to recognize that the Republic of China and other countries of Asia are themselves endangered. Just recently, the former premier of Japan declared that the arming of Free China would destabilize the Far East. What more can be said?

They are all obsessed with the search for self-protection and the quest for a stand-in. So there emerged an attractive myth—that there are "bad" and "good" communisms. And out of such a myth grew the image of Communist China as a good-natured peacemaker. But should that be surprising—when in South Korea, which herself survived a Communist assault, there exists a myth that actually the Soviet Union is not directly hostile to them, not so much an enemy, not like North Korea. The South Koreans have also been doing their utmost to curry favor with Peking. Now they are hesitating about whether to give a defecting Red Chinese aircraft to Free China.

No, it is not out of short sightedness, not out of stupidity, that such myths are believed, but out of despair, out of the loss of spirit.

In a particular relationship to you is the United States of America. Up to this day, the United States provides the only outside guaranty restraining the Communists from attacking your island. But how difficult it becomes for the United States to remain faithful to Taiwan, how much has already been lost on the way. The Americans have also succumbed to the general world trend to leave the Republic of China to its perils, to abandon it to its fate. America moved to abrogate its diplomatic relations with the R.O.C. for what? For what fault of hers? Only to follow the futile western dream of gaining an ally in Communist China. America has restricted its connections with you, curtailed its military support and is denying you much of what you need.

What pressures have been exerted upon American presidents, urging surrender of Taiwan. Not all of them could bear the strain. Here we have a former president, just back from a visit to China, where he flattered his hosts by saying that "A strong Communist China is a guarantee for peace" and that America seems to be interested in a strong Red China. Such people in former years have governed the

United States and there is no guarantee that another such person might not succeed President Reagan.

The United States is highly heterogeneous. There are many currents, of which the capitulatory tides are quite powerful. Extremely powerful circles are leaning toward betrayal of a free country in favor of a friendship with a totalitarian one. They gladly picked up the hypocritical offer from Communist China on "peaceful unification." Many American journalists cry from the housetops that Peking is now "bound by promises" to effect unification peacefully. They wanted to forget, and therefore successfully forgot, how many times the communists have already cheated. The experience of "governments in concert with communists" in postwar Eastern Europe has taught no lesson. This helpless experiment now is being conducted in Cambodia. Similarly, according to Kissinger's agreement, North Vietnam was "bound by a ceasefire"—until it set the day for the seizure of South Vietnam. And leading American newsman reached such heights of stupidity as to write that the United States doesn't make mistakes. If Red China "breaks its promise" and seizes Taiwan by force—then—only then—America would be freed from obligations and could again start to deliver arms * * * to whom, then? * * * Yes, such delirium appears on the pages of leading American newspapers, and they don't realize what they are doing.

And thus the influential circles in the United States want to force Taiwan to accept capitulatory negotiations, to relinquish voluntarily its freedom and power.

What, then, does Communist China want from you? Certainly, it is eager to grab your blossoming economy, to plunder and devour it. After all that has happened in the 20th century, only shortsighted simpletons can trust Peking's promises that it will totally preserve your economic and social system, and even your armed forces along with some elements of freedom. But the main issue is not to take away from wealth, to steal the fruits of your hard work. The main thing is that the communist system does not tolerate any deviation in anything or anywhere. Not even the wealth of your island is important, what matters is the deviation from their system. Communist China hates you for your economic and social superiority. For them it is not permissible that other Chinese should know that there can be a better life without communism. The communist ideology does not tolerate any islets of freedom And so, with all their might, the communists want to cut off the sale to you even of defensive arms, to try to weaken your defense capability, to disturb your balance of power in the strait—and thus to bring closer the day of intrusion into your island.

In order to nurture the apathy of the United States, Red China plays speculatively on the negotiations between Peking and Moscow on matters of China-Soviet rapprochement. Such rapprochement is not makebelieve. It is a very realistic perspective. Both governments have long had common roots, a fact which everybody seems to forget. As far back as 1923, a Soviet agent Grusemberg, alias "Borodin," prepared a communist coup, and it was he who promoted Mao Tse-tung and Chou En-lai to the highest positions in the party.

All that I am telling you—because of the deadly danger in which you find yourself—is understood well by many, if not yet by all. The threat is understood better here than in South Korea, where the young generation, the students, have quite forgotten the brief horrors of communist intrusion, so that the present freedom seems to them not enough. But they will remember and revalue their present "nonfreedom" when, after a command "hands back," they are driven under armed guards into concentration camps.

It seems to be fashionable in the West: to demand from all who stand in the forefront of defense, under machine-gun fire, to demand the widest democracy, and not just simple but absolute democracy, bordering on total dissoluteness, on state treason, on the right to destroy their own state and country—such freedom as western countries tolerate. Such is the price the West demands from each menaced country, including yours. But it seems that on your island the logical limits are known and will sustain your struggle.

There is another danger stalking you. Your economic successes, your living standards and well-being are of a twofold nature. These are the bright hope of all the Chinese people. But they also can become your weakness. All prosperous people tend to lose the awareness of danger, an addiction of the good living conditions of today, and consequently lose their will for resistance. I hope and I urge you to avoid such a weakening. Don't permit the youth of your country to become soft and placid, to become slaves to material goods, until finally they will prefer captivity and slavery to the struggle for freedom. That for 33 years you lived peacefully does not mean that you might not be attacked in the following three years. You are not a serene, care-free island, you are an army, constantly under the menace of war.

You are 18 millions, about as many as there are Jews in the world and your problem is of the same dimensions. But the Jewish problem attracts the attention of all states and has become one of the central problems of contemporary times. Comparing this with the uniqueness of your position, I don't perceive why the fate of Taiwan should not command the equal attention of the world.

But in today's world betrayal from weakness reigns supreme, and it is only your own strength upon which you can really rely. But there is also one more big and bigger hope: the peoples of the enslaved nations, who will not endure indefinitely but who will rise in one menacing hour—menacing to their communist rulers.

In your books you write that your island is "a bastion of national recovery." So be it. Not only defense, not only self-preservation should be your goal—but help, but the liberation of your compatriots suffering on the mainland, and first of all, free and courageous radio broadcasts.

It may seem, since no one comes to mind, that you have no firm, reliable allies, although they might appear in the Hour of destruction. But you have the most formidable ally in the world: One billion Chinese people. Their sympathy is your moral and spiritual support. Just a few days ago, you had an encouraging signal from your compatriots through the act of defection of a Red Chinese air force pilot. Often I think of still anonymous prisoners of the Chinese gulags whose true story might not be told until the 21st century.

All the oppressed people, including the peoples of the Soviet Union, cannot rely on outside help, only on their own strength. At the best the whole world would watch indifferently, but possibly with a great deal of relief, if the mad rulers of China and the USSR should unleash war among them. I hope that won't happen. But in any case, let us testify here and now to the mutual amicability and trust between the Chinese and Russian peoples, to the absence of contradictions amongst them, even more, let us hope for a union of our long suffering compatriots against both communist governments. Whatever might happen between these two self-interested, anti-national governments, let us preserve mutual understanding, mutual compassion and friendship. Let's not allow them to blind our eyes and deaden our ears through fruitless national hatred.

We don't know how long the plague of communism will affect our world. One hundred and thirty-five years ago, who would have told the leaders of the then great empires that the tiny group of utopists—communists who organized themselves in Europe—would conquer them all with iron and blood and force to their knees their might and pride? They would not even have smiled at such a prophecy. Such forces could not then be seen anywhere. The strength of the communists was based on their drive and their cruelty, the weakness of the West was rooted in the absence of the will to fight.

We don't know what whimsical zigzags human history will follow. I have already expressed a supposition that world communism will outlive both Soviet and Chinese communist regimes and spread over other countries, many of which are still eager to experience communism. But in our two countries national common sense shall finally prevail.

Anyway, both our peoples have suffered too much, lost too much. They are already moving along the way of liberation and recovery.

[From the New York Times, Oct. 28, 1982]

CHINA AFTER DENG

(By William Safire)

WASHINGTON, Oct. 27.—The next major political upheaval in China will take place four years from now.

How can I be so vocally unequivocal? Simple: China's 10-Year Pendulum of Power.

In 1946, Mao's Communists swept out the Kuomintang. In 1956, Mao's blundering Great Leap Forward tore the country apart and curtailed his power. In 1966, Mao took his revenge with the Cultural Revolution, which threw out the intellectuals and the bureaucracy. In 1976, the bureaucracy roared back and made criminals out of Mao's would-be successors. In 1986, if this power pendulum keeps swinging with its amazing regularity—de-Dengification, the return of Communist purity and the expulsion of the "capitalist roaders."

You don't have to be a Chartist to love this simplistic theory. Evidence abounds that Deng Xiaoping, Mao's onetime victim and ultimate conqueror, rejected synthesis or compromise, choosing instead to root out and ruin the gang of perhaps forty million suspected of profiting from the years of Maoist domination.

Deng's vendetta has not been totally successful. The official press regularly excoriates the "handful" of former Cultural Revolutionaries who are turning out to be quite a handful. Hua Guofeng, Mao's designated successor and a Deng target, is down but not out in Peking. And a curious age bulge suggests future instability: the millions of Maoist firebrands who held sway during the Cultural Revolution are now in their 40's and 50's, while the reigning Dengists are in their 60's and 70's.

Deng power is mortgaged to the military: 12 of the 25 Politburo members are generals or men with close ties to China's Red Army. If Deng's "four modernizations" do not tilt toward far more military spending, the army could decide to stand aside in 1986 and let the opposing schools of thought contend.

"There is turmoil under the heavens," the Chinese like to say, "but the situation is excellent." Is it? Which faction—radical Maoist or pragmatic Dengist—is most likely to make a rapprochement with the Russians and change the global balance?

To answer that, we must remember that two relationships used to exist between China and the Soviet Union: diplomatic (state to state) and ideological (party to party). In the 50's, the party alliance overwhelmed the age-old state-to-state tensions. When the Soviet Communist Party rejected Stalinism, Mao—a Stalinist—accused the Russians of revisionism, the dirtiest word in Communist terminology. That split between the Chinese and Soviet Communist Parties led to the split between the two states.

Today China is run by the pragmatic Dengists—the group the Maoists reviled as "capitalist roaders" and "revisionists." Thus the basis for the party-to-party split is eroding; in both parties, purism is past.

As a result, state-to-state relations are now improving. Border disputes can be negotiated, with a troop pull-back possible; Soviet concessions in Afghanistan might be matched by tacit Chinese acquiescence in Cambodia; trade can begin again.

Here's the anomaly: we like to see China's leaders being sensible, feeding their people by using capitalistic incentives rather than starving them with radical Communist notions: but we don't like to see China getting cozy with the Soviet Union. We applaud the shift in China that brings the Chinese closer to our capitalist ideology, but we are dismayed to see that same shift work against us diplomatically—by promoting an end to the enmity between the giants of the Communist world.

Strategically, the U.S. might be better off with Maoism in China, because such radicalism would continue the Sino-Soviet party-to-party rift (unless the Russians reverted to Stalinism, which is unlikely but not impossible).

Nobody in the U.S. says that aloud. Instead, we kowtow to the Dengists every time they revile us. Says Richard Nixon tolerantly: "The Chinese feel they have to kick us around a bit to keep their own credentials as a third-world nation."

In the same way Deng asserts sovereignty over Hong Kong, offering the British the sort of autonomy that the Chinese urge the Palestinians to reject from Israel. Deng extracts from Mr. Reagan a shameful pledge to stop arming Taiwan in return for a promise that never was: "I think that if we both keep quiet now," Henry Kissinger told ABC's David Hartman, "that there will in fact not be an invasion of Taiwan, but we cannot say—because it isn't true—that they have made a promise to us that they will not do that." So much for Mr. Reagan's self-delusion.

All this kowtowing and betrayal of an ally is to help Deng keep the Maoists from swinging the pendulum back. Paul Wolfowitz (long in sheep's clothing), who has been offered the post at State directing our Far East policy, should be asked at his confirmation hearings: Does appeasing Deng keep China estranged from the Soviet Union? Or does it do the opposite?

EXHIBIT E.--REPORTS

[From Issues & Studies, vol. XVI, No. 12, Dec. 1980]

Recognize the Chinese Communist "United Front" Tactics for What They Are

Tsai Wei-ping
Director
Institute of International Relations

The Chinese Communist catchword "T'ung-chan" is an abbreviation of "T'ung-i chan-hsien" meaning "united front." Although the English translation sounds innocuous enough, when the Chinese version is converted back into English again, it means "uniformly united battle front." Evidently, the added implication of the word is for Chinese consumption. There are hundreds of such catchwords and terms in the Chinese Communist lexicon for domestic and external consumption. "T'ung-chan" is but one of them.[1]

Generally speaking, each trade or profession has its own terminology. In Communist countries, many terms are concocted to eulogize Marxism-Leninism or to revile capitalism, feudalism, etc. It is safe to say that the Chinese Communists have adopted and invented more such jargons than their comrades elsewhere, because they needed them to communicate mostly with peasants and workers. As the latter are usually not well educated, these terms were purposely couched in simplistic, ambiguous, but inflaming phrases in order to incite them. Furthermore, as the Chinese Communists need to use the peasants and workers to propagate their doctrine, simple and sentimental catchwords have proved much more effective than sophisticated ones. Hence, such expressions as "The poor and down-trodden on the top," "Lean to one side," etc.

Furthermore, when the Chinese Communists struggle against their enemy within or without, and for the purpose of concealing their own plots, distorting facts, exaggerating the enemy's crimes, and inflaming popular sentiments against the enemy, they invariably concoct some vicious and malicious words such as "political swindlers," "capitalist-roaders," "poisonous weeds," and "gang of four," etc., in order to "struggle the enemy down, struggle him until he collapses. and struggle him until he stinks." These jargons are particularly effective in large-scale movements. For instance, the term "gang of four" has isolated Chiang Ch'ing, Chang Ch'un-ch'iao, Yao Wen-yuan, and Wang Hung-wen from the Chinese Communists as a whole and made them appear to be "the people's enemy."

---

[1] There are 2,287 such terms in *A Comprehensive Glossary of Chinese Communist Terminology* published by the Institute of International Relations in 1978 in Taipei.

1. "United front" means nothing but to struggle against the enemy until the latter collapses

To be concise, the term "united front," when used by the Chinese Communists, means to form an alliance with all the forces that can be "united," and to organize them into a camp of "uniformity" and then employ all possible means of struggle against the enemy. When there are too many enemies that cannot be struck down all at once, then narrow the target area and "unite" with the "secondary enemies" to get rid of the "principal enemy"; and when that is done, proceed to annihilate the others one by one by the same process. When the enemy is too strong to be defeated by frontal attacks, methods of infiltration are to be used to induce divisiveness within the enemy's camp, to create subversion, and to start guerrilla warfare so as to weaken the enemy until the latter can be destroyed by a *coup de grace.* All these are covered under the simple term "united front." Furthermore, methods to carry out the "united front" stratagem can be changed to suit the specific environments and situations, including "peace offensive," for instance, while the goal remains constant—struggle against the enemy until the latter collapses or stinks.

Traditionally, the term "total warfare" includes economic warfare, psychological warfare, and so forth, in addition to military warfare. There is also the term "war of the whole people" that calls for every citizen to fight on all fronts against the enemy. In "united front" warfare, the Chinese Communists put themselves in the center of the front to launch all possible struggles against their enemy according to the "revolutionary lines" set up by themselves. In other words, the Chinese Communists consider "united front" warfare something unique—something best understood, mastered, and manipulated by themselves. They back up their claim by their "ends justify means" philosophy—it is all right for them to use any means, human or inhuman, to achieve their "revolutionary goal." Armed with such an ideological weapon, they can lie and cheat their enemies, their friends, their comrades, their subordinates and their "people." For the same reason, the Chinese Communists do not conceal their crimes and atrocities, unless their exposure harms their "united front" efforts. While the Nazis tried to cover up their massacre of the Jewish people, the Chinese Communists put millions of people on "mass trials" and then murdered them in public.

2. "United front" warfare against the Republic of China whenever military adventures fail

The Chinese Communists have been continuously clamoring for the "liberation of Taiwan." But even in their "peace offensives" launched every now and then, they have never excluded the possibility of using force.[2] Whenever they believe they have the capability, they will not hesitate to use force. Otherwise, they will resort to "united front" warfare.

In 1949, after the seizure of the Chinese mainland, the Chinese Communists tried to take Kinmen by force but were soundly defeated on the beaches of Kuningtou; and in 1958, following the conclusion of their military intervention in the Korean War, the Chinese Communists subjected Kinmen to the heaviest artillery bombardment in military history of the world, but they failed to attain their objective.[3] At the same time, they suffered humiliating losses in air battles over the Taiwan Straits with the

---

[2] UPI, San Francisco, September 13, 1980. Ch'ai Tse-min, ambassador of the Chinese Communist regime to the United States, delivered a speech, saying that in order to make Taiwan "return to the bossom of the fatherland, there is the possibility of using military force against Taiwan."

UPI, Peking, October 15, 1980. One of the informed sources said: "If Washington continues sales of weapons to Taiwan, the United States will compel China to abandon peaceful unification of Taiwan."

[3] In October 1949, the Chinese Communists launched an amphibious attack against Kinmen. In the battle at Kuningtou, more than 7,000 Chinese Communist troops were killed while another 7,000 were captured alive. The Chinese Communists lost more than 15,000 men in their attack. On the other hand, the Republic of China garrison forces suffered 3,100 casualties (1,200 killed and 1,900 wounded).

On August 23, 1958, the Chinese Communists started a sustained artillery bombardment against Kinmen, firing an estimated total of more than 470,000 rounds. At the same time, air battles over the Taiwan Straits resulted in a complete victory for the ROC Air Force, with the remarkable score of one government plane to 31 Chinese Communist planes shot down. Naval engagements were also in favor of the ROC Navy which sank a good number of Chinese Communist torpedo boats.

Republic of China Air Force. Since then, they have ceased in their threat to "bloodwash Taiwan."

Western military history is replete with cases of successful amphibious operations. But they were conducted with advanced armaments and overwhelming strength. One of the outstanding examples is the Normandy invasion in World War II. After having secured air and naval supremacy over and in the English Channel, and after having subjected all vital points held by Hitler's forces to an extensive and intensive bombardment, thousands of Allied warships took part in the landing operations. The largest single naval force ever assembled in history covered the Atlantic coast with ships and guns. Even then, the Allies incurred heavy casualties. Now the English Channel is only 35 miles wide whereas the Taiwan Straits is about 100 miles. And to date, the Chinese Communists have not been able to achieve air supremacy over the Taiwan Straits.

In 1979, when the Chinese Communists started their spectacular military adventure against Communist Vietnam to "teach" their ex-comrades "a lesson," they deployed about 1,000 war planes along the border, but did not dare to use them for fear of Vietnam's superior combat planes. As a result, their ground forces suffered heavy casualties. They know that they will not be able to invade Taiwan without establishing air supremacy first.

In the early stages of WW II, the Nazis succeeded in sweeping across the European continent without meeting much opposition. They also launched heavy aerial bombardments against England. Yet, Hitler did not venture to cross the English Channel. At the time analysts said although the British soldiers did not fight well overseas or on colonial territories, they could be expected to put up a life-and-death fight when England itself should be invaded. Today, the same can be said of any nation that is determined to fight for its very survival. The general consensus of strategists and tacticians is that to invade an island in the face of its determined defenders is something extremely difficult to do. In WW II, General Douglas MacArthur in his island-hopping campaign against the Japanese in the Western Pacific suffered heavy casualties. Now, the Republic of China's defenders on Taiwan and the offshore islands are well armed and high in morale. Apparently, the Chinese Communists have concluded that this is not the time to try any military adventures. So they have switched back to their "united front" tactics, thereby hoping to be able to isolate the Republic of China internationally and to subvert it from within.

3. Three battle-areas for "united front" offensives

The Chinese Communists have divided their "front" against the Republic of China into three major "battle areas"—the mainland, Taiwan, and overseas.

On the mainland, the Chinese Communists have maintained since 1978 a "Taiwan Operations Team" in the CCPCC's United Front Department with branches in various provinces and municipalities. From time to time they would summon some of the so-called "democratic personages" from Taiwan and Hong Kong to meetings. In the latter part of 1978, they began to show motion pictures of people's living conditions and scenic spots of Taiwan,[4] purportedly to stir up popular enthusiasm to "liberate" Taiwan. This move, however, backfired. Those who have seen these films, instead of becoming enthusiastic about "liberating Taiwan," developed an envy for people in Taiwan. This was especially true with educated youths who have been fighting for freedom and better living conditions for themselves. They put up big-character posters demanding "We must learn from Taiwan in economic matters." Understandably, the Chinese Communists quickly stopped showing such pictures to the general public.

In recent months, many journalists, scholars, and other visitors have toured the mainland and talked with people in various walks of life there. They said they have seldom heard anybody talk about "liberating Taiwan," nor have they found anybody enthusiastic about Taiwan's "return to the Fatherland" under "peaceful unification." The ordinary people on the mainland are simply not interested in such questions. When asked, the peasants and workers usually said they have heard people in Taiwan are living better than they themselves; and what they are most interested in is a better life with more rations of daily necessities. The educated youths there have somewhat different views of their own. They believe that it is impossible to have "peace talk" with Taiwan because no one would give up a better life for the sake of so-called "unity." Likewise, they also believe that Taiwan cannot make the Communists repudiate their ideology and system. Thus, "peace talk" is nothing but a kind of idle talk.

In Taiwan, no one can say that every agent sent by the Chinese Communists has been detected and locked up behind the bars. Nevertheless, it is extremely difficult for any such agent to operate because of lack of popular support. The people in Taiwan know very well the conditions on the mainland. They have learned from local newspapers, foreign press reports and magazines (among them, *Newsweek, Time, U.S. News & World Report,* to name only the most popular ones). They are free to visit foreign countries to see for themselves what life is like there. And they can get first-hand information from refugees (some of them are their relatives or acquaintances) from the mainland. At least, they know of the poverty and backwardness prevalent on the mainland and the factional strife and social disorder under the Chinese Communist rule. They can see no point in talking about "peace" with the Chinese Communist regime. The people in the Republic of China on Taiwan are prosperous and moving on to further developments. There is no reason for them to change their present way of life.

---

[4] Motion pictures about Taiwan having been shown in Peiping include ***Oh! Taiwan, The Story of Ah Min, Flesh and Blood Relatives,*** and ***Patriotic as a Family.*** See ***Ta Kung Pao*** (Hong Kong), August 29, 1979.

In certain overseas areas, some Chinese feel discouraged and frustrated because of racial discrimination. They naturally would hope that their Fatherland becomes strong enough to give them some protection. Before the recent parting of the Bamboo Curtain, they had only vague ideas about the Chinese Communist regime. In recent years, many have visited the mainland and what they have seen is most distressing. Those who left the mainland thirty years ago find things older and out of repair. When they come to Taiwan, they see things have changed from good to better. Even the Chinese Communist leaders have admitted that it is impossible to hide all the skeletons in the closet. They have begun to confess that the living standard of people on the mainland is not as good as thirty years ago and that more than 100 million people are living at the subsistence level. Teng Hsiao-p'ing has tried to solicit assistance from other countries, pleading that the Chinese mainland lacks capital, talents, and everything modern. The regime urgently needs help from capitalist countries.

Generally speaking, other countries do not need any help from the Chinese Communist regime. Unfortunately, some Western countries, or just a part of their mass media, have accepted and are spreading the impression that the Peiping regime is in firm control of the one billion people on the mainland and can be a trump card in dealing with the Soviet Union. They reprint Chinese Communist propaganda material profusely while shying away from reports and statements made by the government of the Republic of China. This has hampered us in our efforts to counter Peiping's "united front" activities in foreign countries.

4. Refusal of peace-talk feelers is a manifestation of determination

The Chinese Communists have recently taken a low profile approach toward the Republic of China, saying that if Taiwan agrees to talk peace, they would not ask Taiwan to change its system currently in use. Taiwan, they said, may keep its current way of life, even its army. But, they stressed, Taiwan must stop calling itself "Republic of China" and stop using its national flag. It is easy to see that the offer is nothing but sugar-coated poison. It is, in fact, a demand that the Republic of China repudiate its independence and sovereignty and voluntarily surrender to Communist totalitarianism. The so-called "peace talk" the Chinese Communists have in mind would be actually negotiations only on surrender terms.

It is rather strange that some foreign visitors, and even a few overseas Chinese, have asked why the Republic of China has turned down the Chinese Communist overtures for negotiations. It seems that they are completely unaware of the mandatory premise set up by the Chinese Communists for such talks. If these persons do know the premise, they would not have asked such a question. Some of them think that the Republic of China, as a counter-measure, can at least show a willingness to negotiate without accepting any of the preconditions. Quite understandably, a manifestation of this sort will immediately be exploited by the Chinese Communists and their sympathizers. They will use all means of propaganda to tell the whole world that Taiwan, as a provincial power, has finally accepted the terms of surrender. By then, however strenuously the Republic of China may strive to correct this erroneous impression, it cannot completely expel the clouds of doubt about its true intention. Above all, all Chinese people, both at home and abroad, will quite likely become demoralized once their hope for continued prosperity, security, and freedom is diminished.

After the War of Resistance Against Japan, the Central Government of the Republic of China with Vice-President Li Tzung-jen in charge, agreed to negotiate with the Chinese Communists and sent a delegation to Peiping. The Chinese Communists immediately raised new terms, actually calling for an unconditional surrender. At the same time, they publicized a list of so-called "war criminals" and demanded that the Central Government deliver them for trial. As a matter of fact, the Central Government was humiliated before there were substantial negotiations, while the Chinese Communists reaped a propaganda victory which helped them greatly in their military insurrection. Our late President Chiang Kai-shek once said explicitly: "They want to negotiate with us now because they hope to achieve by political means what they have failed to achieve by violence."

Some people also tend to think that the Republic of China's refusal to negotiate has put it on the defensive. In reality, not to negotiate is just as a strategy as to negotiate. We are aware of what the Chinese Communists are up to, and, therefore, we have refused to negotiate with them. We want to show the whole world that we are firmly opposed to the Communist ideology and system without any need to resort to "pragmatic" hypocrisy. Our repeated refusals signify a consistent policy. Thus, the Chinese Communists have no chance to achieve by political tricks what they cannot achieve by force.

During Teng Hsiao-p'ing's visit to the United States in early 1979, he was asked whether he would allow dissenters to leave the Chinese mainland. The question was probably designed to find out whether the Chinese Communists would respect the human rights of the mainland people to emigrate. Teng answered the question with one of his own. With evident mockery, he said he would let 20 million people leave and asked how many the United States would be prepared to take. This made the one who asked the question speechless. In fact, what Teng said was not an answer at all but a cynical retort. This also shows that the Chinese Communist power-holders, from Mao Tse-tung down to Teng Hsiao-p'ing, are all infatuated with a cunning rascality that automatically rejects any reasonable questions by others. Therefore, to the question whether it is wise for the government of the Republic of China to reject Chinese Communist peace overtures, the answer is: should a sober and rational refusal of a knavish gesture be considered unreasonable? If refusal is considered passivity, then would acceptance of Peiping's demand constitute a case of initiative-taking?

The Chinese Communists have said that the people on Taiwan can keep their way of life. This is nothing but an empty promise. When the Chinese Communists first occupied the mainland, they proceeded to liquidate the landlords, or landowners, by violent purges, and they succeeded in confiscating 700 million *mou* of arable land.[5] In the meantime, they solemnly pledged that the "people's government" would conserve the economy of the rich peasants and "protect" the interests of the middle peasants.[6] The pledge was nothing but a scheme to isolate the "landlords" from the rest of the peasantry. A few years later, they enforced the system of "people's communes" which turned all peasants into serfs.

In 1956, Mao Tse-tung started the "let a hundred flowers bloom and let a hundred schools of thought contend" movement, encouraging "democratic personages" and intellectuals to express their views freely, and promising "long-term co-existence and mutual supervision" to "democratic parties" that had clustered around the Chinese Communist hierarchy.[7]

---

[5] Note 3 of "Fight for a Fundamental Turn for the Better in the Nation's Financial and Economic Situation," *Selected Works of Mao Tse-tung*, Vol. V (Peking: Foreign Languages Press, 1977), p. 32.

[6] *Ibid.*, p. 29.

[7] Mao Tse-tung, "Talks to the Enlarged Meeting of the Politburo" (April 1956), *Mao Tse-tung ssu-hsiang wan-sui* (毛澤東思想萬歲 *Long Live Mao Tse-tung Thought*) (1949-68) (n.p., August 1969, reprinted, Taipei: Institute of International Relations, 1974), p. 38.

The movement turned out to be "an overt scheme," as Mao put it,[8] to unearth all potential antagonists whom Mao quickly rounded up in a subsequent "anti-Rightist struggle." The Chinese Communists have pushed the people on the mainland into an abyss of poverty and backwardness. How could they allow the people on Taiwan to continue enjoying a life that has made even their high-ranking cadres envious? The government of the Republic of China not only wants to ensure that the people on Taiwan can keep what they have built up in the past and what they may build up in the future, but also wants to see that the people on the mainland have the same living standard. The best answer to this question was provided by Premier Sun Yun-hsuan in his statement of January 12, 1979, that the Chinese Communists can qualify themselves for negotiations with the government of the Republic of China when they have accepted and fulfilled the mainland people's wishes and demands for freedom and democracy, for repudiation of Marxism-Leninism, and for the return of all the properties confiscated by the Communist regime in the past three decades.

5. Establishment of postal, communication and trade links is a plot intended to divide the people on Taiwan

To begin with, people on the mainland do not have the freedom to run any private businesses. Although the Chinese Communist hierarchy has recently given permission to the so-called "individual economy," under which individuals may operate businesses such as shoe repairing, bicycle tire repairing, food stands, and handicrafts, but none of them can take part in "trade exchanges." Even now, people on the mainland still have to buy rice or flour with ration coupons and travel with official permits, while all kinds of production are under Chinese Communist control. Thus, the "links" would not be people to people, but between the Chinese Communist regime and the people on Taiwan which will provide the Peiping regime with many material benefits as well as chances for infiltration.

The government of the Republic of China has consistently maintained a ban on the importation of products from the Chinese mainland. However, there are rumors in Hong Kong that trade between Taiwan and the mainland has been increasing year by year, and that it has now reached US$30 to 40 million.[9] According to these rumors, the mainland market will soon become one of major concern to Taiwan. Named as Taiwan's major imports from the mainland are Ginseng and Lojung, or deer horns (Cornu cervi pantotrichum). As a matter of fact, Taiwan has an ample supply of Ginseng from South Korea and Lojung from local deer farms. Of course, such items are sometimes brought in by visitors or by smugglers, but they cannot possibly amount to any multi-million trade. What is imported by way of Hong Kong consists of medicinal herbs which Hong Kong traders import from various Southeast Asian countries and not from the Chinese mainland alone. The total volume may reach several million U.S. dollars a year. Since the imported items have been processed or packaged in Hong Kong, it is difficult to ascertain how much of them actually came from the mainland.

---

[8] "*Wen Hui Pao's* Bourgeois Orientation Should Be Criticized," *Selected Works of Mao*, Vol. V, p. 454.

[9] *Wen Wei Po* (Hong Kong) of June 13, 1980, reported that Taiwan's products introduced into the mainland via Hong Kong were valued at US$21,300,000 while Taiwan indirectly imported mainland goods worth US$57,800,000. All Chinese Communist newspapers have used these figures for propaganda purposes.

At the same time, Taiwan exports large quantities of textile goods. Once sold to traders in other places such as Hong Kong, they are out of Taiwan's control. Therefore, it is difficult to know how much of them is being re-exported to the Chinese mainland. The Chinese Communists are eager to expand their exports in order to earn more foreign exchange. They have built factories to produce garments and sport footwears, and they need cotton and woolen materials and canvas. As their own goods are inferior in quality or are simply unavailable, they have to import them, mostly from Hong Kong, and this could include materials made in Taiwan as well as those from other countries. Meanwhile, as Taiwan's textile industry is fast moving into the production of high-quality items, the mainland market, if one has really ever existed, is one of little or no significance to Taiwan producers.

In short, the total value of medicinal herbs from the mainland that come to Taiwan via Hong Kong, and Taiwan's products finding their way to the mainland by the same route cannot possibly reach US$40 million a year. Even if it did, it would be only one thousandth of Taiwan's annual foreign trade which is expected to reach, if not to exceed, the US$40 billion mark this year. Therefore, if it is the Chinese Communists' intention to use trade as a bait in their "united front" warfare, it will not have any effect on the business circles in Taiwan.

6. The "one China, one Taiwan" concept is a naive and dangerous one

Under the clouds of dust stirred up by the Chinese Communists' "united front" tactics, one development deserves our close attention. Some foreign friends suggest it may be advisable for the Republic of China to adopt the "one China, one Taiwan" line because it would help many countries out of a great dilemma. As things stand today, they are bound by the sense of legality imposed by international laws that one can only recognize either the "People's Republic of China" or the Republic of China as the sole sovereign government of China. They believe that the "one China, one Taiwan" line would permit many of the countries which have already recognized the Chinese Communist regime to recognize Taiwan also as a sovereign state. The number of such countries, however, has diminished in recent years because they know it will not work, or, in other words, accomplish what they thought it would.

In Taiwan, there are some political has-beens and extremists who hope to gain political power by playing between the two sides. Their fanciful scheme is to establish connections with the Chinese Communists to "topple the Kuomintang" and to "stop the Communists from coming" with foreign aid. This seemingly cunning idea is not only naive but also dangerous to all concerned, including the advocates themselves. In the first place, the idea completely lacks popular support in Taiwan. Secondly, its advocates are ignorant of what has happened to "democratic personages" who formed an alliance with the Chinese Communists in the 1940s. Last but not the least, such an attempt will surely provide the Chinese Communists with an opportunity to "divide the enemy" from within. When the "united front" offensive fails to infiltrate Taiwan from without, the best alternative from the Chinese Communist viewpoint is to stir up "revolution within the island" to subvert the Republic of China. For this reason, the Chinese Communists look upon the "Taiwan independence" movement as a pivotal point in their "united front" warfare against us.

Those who think it is advisable for us to accept the status of "one China, one Taiwan" for the time being, must realize that should the idea become a reality, the people on Taiwan will automatically lose their identity as Chinese. By then, the word "Chinese" could only apply to the people on the mainland, to whom the people on Taiwan will become foreigners, and to whom our sacred pledge of anti-Communism and restoration of democracy to mainland China on the basis of Dr. Sun Yat-sen's Three People's Principles will become so much meaningless verbiage. The people on Taiwan will lose their credibility with their overseas compatriots, their credibility with countries that have stood by them during all these years, and their credibility with their compatriots on the mainland who would then think that the people on Taiwan have abandoned them for selfish purposes.

People involved in the "Taiwan independence" movement must realize that many people have already been deceived and victimized by the Communists, who always pick political speculators and profiteers as their first targets and then "purge" them after exploiting their usefulness. Before they join the ranks of "democratic personages" discarded by the Chinese Communists in the earlier years, the "independents" will have been repudiated by the 18 million people on Taiwan.

7. Conclusions

As already mentioned earlier, although the Chinese Communists are unable to invade Taiwan by military force, it does not mean that they will never try. Therefore, the Republic of China must continuously strengthen its national defense. Not long ago, the United States and Japan held a conference in Tokyo to commemorate the 20th anniversary of the U.S.-Japanese Mutual Security Treaty. American scholars who attended the conference suggested that Japan should increase its defense budgets and accept a greater responsibility in the common defense of the Western Pacific and Northeast Asia. In response, Japanese scholars pointed out that the United States has only urged Japan to increase its defense without consulting Japan on international security matters. As an explanation, one of the American scholars said that U.S. failure to consult Japan on certain security matters could be attributed to Japan's limited defense capability which restricts its possible contributions to regional security.

It is evident that the Republic of China should make more contributions toward the maintenance of security in the above-mentioned region, besides continuing with its own programs of economic development to enhance its overall national strength. Therefore, further improvement and strengthening of the Republic of China's defense capabilities will be necessary for effectively discouraging or deterring any possible Chinese Communist aggression as well as for making substantial contributions to security in the Western Pacific and Northeast Asia. At present, the Republic of China must expose the Chinese Communists' insidious "united front" strategy for what it is by letting the whole world know its contents and purposes. In the meantime, such an effort will undoubtedly hasten the re-surgence of the human rights movement on the mainland which in turn will accelerate the eventual downfall of Chinese Communist totalitarianism.

[From Issues & Studies, vol. XVII, No. 12, Dec. 1981]

The Republic of China: A Strategic Appraisal for the Decade Ahead

William M. Carpenter
Assistant Director
Strategic Studies Center
SRI International

Stephen P. Gibert
Professor of Government
Georgetown University

A review of the strategic situation and particularly of the possible threats and developments which might confront the Republic of China (ROC) in the decade ahead leads one to be optimistic about the future. There are no serious threats looming on the horizon which could jeopardize Taiwan in the next few years.

This does not mean that there are no problems—including some which may become serious—which will confront the ROC. All nations, of course, face the demands of political, economic and social change and the Republic of China, because of its unique character and place in the international system, perhaps more than most. The ROC, accordingly, will need to determine which likely developments do pose problems and what courses of action hold the most promise. This paper concludes that four such long-range and enduring problem areas warrant careful scrutiny by the ROC government. These are: (1) the present and increasing political isolation of the ROC in world affairs; (2) the close yet increasingly subtle and complex relationship between the Republic of China and the United States; (3) the need to maintain internal stability within an evolving constitutional framework which promises to contribute to economic development, social consensus and political modernization; and (4) the continued maintenance of military forces sufficient to deter any possible actions by the mainland directed against the security of Taiwan.

It is not the task of the authors of this paper to recommend particular courses of action to the leaders of the Republic of China. It is considered proper that this article highlight these four long-range problem areas as a possible contribution to solutions which will be decided upon by ROC leaders themselves.

Political Isolation of the ROC in World Affairs

Over the years since 1949 the Republic of China has seen its international diplomatic position steadily erode. This is not surprising; as more and more governments around the world came to conclude that the authorities on the mainland would be able to maintain their political control, it was to be expected that they would shift recognition from the Republic of China to the People's Republic of China (PRC). This development by no means signals a failure on the part of the ROC but rather the simple fact that the disparity in size between the two contending parties inevitably favored the gradual replacement of the ROC by the PRC in world councils. It is, indeed, a testimony to the success of the ROC in creating a vibrant and dynamic society that such diplomatic erosion took so long to occur.

Three factors explain the increasing politico-diplomatic isolation of the Republic of China. The first, as mentioned above, is the disparity in size, both territorial and in population, between the mainland and Taiwan. It is natural and to be expected, if compelled to choose, that governments around the world will choose Peking. This is so because, with but few exceptions, most governments are relatively uninvolved in and indifferent to the contest between the two forces laying claim to be the legitimate government of China. Outsiders, by and large, do not have significant stakes—or at least do not perceive themselves as having significant stakes—in the outcome of this rivalry. In such a situation, they will naturally choose the larger, more powerful of the two contestants.

The second factor is the absence of external forces compelling a "German solution" to the China problem. In the case of the Federal Republic of Germany (FRG) and the German Democratic Republic (GDR), the two superpowers, the United States and the USSR, are allied closely to the two competing Germanies. Further, the geopolitical situation is such that both the United States and the USSR would likely be drawn into a clash between the two German rivals. Hence the FRG and the GDR were forced into acceptance of each other. Thus the original FRG policy of compelling world governments to choose between the two German states in terms of diplomatic relations had to give way. And, additionally, East-West detente and SALT required a policy of *Ostpolitik* on the part of Bonn; hence both the FRG and the GDR have been accepted into the world community of nations.

In the case of the mainland and Taiwan, neither the geography nor superpower alliance structures facilitate such an outcome. On the contrary, the physical separation of the two rivals contributes to the view, especially notable in the Carter Administration, that derecognition by the United States was safe, militarily tolerable, and would pose no serious threats to the ROC's security.

As in the case of the two Germanies, in the years immediately following 1949 the two rival superpowers, the United States and the USSR, were allied to and supportive of Taipei and Peking respectively. Under such circumstances, the United States had a strong interest in not only maintaining relations with the ROC but with supporting the ROC's claim to a seat in the United Nations and encouraging other nations to continue diplomatic relations with the Republic of China. But as the Sino-Soviet rift widened, the United States came to see possibilities of diplomatic gain through a so-called "China card." This is not surprising; indeed it is the usual development one sees often in diplomatic history.

A third and closely related factor is the growing military strength of the Soviet Union. In such a situation, it was to be expected that the two "top enemies" of the USSR—the PRC and the United States—would gradually evolve into a closer relationship as each seeks to use the other to counter Moscow's growing might and the Soviet Union's emergence as a great Asian-Pacific power. This development is also a factor in the growing rapprochement between Tokyo and Peking.

It is certainly true that the threat to the PRC from the Soviet Union is more immediate and more severe than that faced by the United States. Surely it can be argued, therefore, that the Carter Administration could and should have obtained better terms for establishing relations with the mainland. But the inherent logic of two threatened nations deciding to collude against the threat—even at the expense of an allv of one of the two—has often been persuasive in past international history and was in the case of the American decision to transfer recognition from the ROC to the mainland.

Unfortunately for the Republic of China, many of the remaining nations that recognize the ROC may be expected to follow suit. A large number of the 23 nations still recognizing Taipei are Latin American; of the others, only Saudi Arabia, South Korea and the Republic of South Africa may be considered important countries. All three of these nations are strongly anti-communist; nevertheless, it is not inconceivable that at least South Korea might follow the U.S. lead and transfer recognition. The very best that the ROC can count on is that its diplomatic status will not erode further.

Are there any solutions to this problem? First, of course, the ROC can and should continue to promote, foster and encourage all non-diplomatic relationships as an offset to the loss of *de jure* diplomatic ties. Relationships modelled on that called for by the Taiwan Relations Act are not ideal; on the other hand, they are not entirely unsatisfactory either. Provided trade, investment, cultural exchange and other aspects of international intercourse between the ROC and many other countries continue to flourish—as they have to date—diplomatic isolation, although undesirable, is tolerable.

A second means for coping with diplomatic isolation is unacceptable—and correctly so—to Taipei. This is to play a so-called "Moscow card." Given Soviet-PRC, Soviet-American and Soviet-Japanese hostility, the USSR might be willing to play a "Taipei card" provided the ROC were willing. In that case, the USSR would undoubtedly succeed in securing recognition of the ROC by various communist and so-called non-aligned countries, thus to some degree reversing the isolation of the ROC in world politics.

It is believed that the ROC—a strongly anti-communist country—would not consider such an arrangement. It is suggested here that such a "solution" would carry too high a price, in both moral and political terms, to be deemed acceptable. Additionally, such a "solution" would irreparably damage ROC-American and ROC-Japanese relations.

There is a third possibility open to the ROC government which also, at least to date and undoubtedly for some time to come, is wholly unacceptable. This is, of course, declaring the ROC to be a Republic of Taiwan and seeking diplomatic recognition on that basis. It is by no means certain that this course of action would reverse the currently developing isolation of the ROC in world politics, but, even if it could, it would be achieved at the intolerable price of denying its Chinese identity. To proclaim a Republic of Taiwan, among other effects, would abandon the Chinese cultural heritage to the dictates of the PRC authorities.

In sum, there is no solution in sight, at a politically and morally acceptable price, to the gradual erosion of ROC *de jure* diplomatic relationships. Rather, the ROC, as suggested earlier, will need to rely increasingly on a host of other non-diplomatic ties—trade, investment, cultural exchange and the like. The increasing diplomatic isolation to be anticipated in the decade ahead is unfortunate but preferable to the possible "solutions" as outlined here.

ROC-American Relations: Present and Future

United States involvement in the "Taiwan question" dates from the Cairo Conference in 1943, when, among other Asian problems discussed, it was agreed that the island would be taken from Japan and restored to China. This was accomplished in the fall of 1945 when the government of the Republic of China took over control of the island from Japan. Subsequently, Taiwan became the only area of China controlled by the ROC after its defeat by communist forces in 1949.

While United States-Communist Chinese relations were certainly unfriendly in 1949 and 1950, it was not until after the PRC entered the Korean War in November 1950 as an ally of Kim Il Sung that Peking and Washington came to regard each other as bitter adversaries. This situation was to last until 1971-1972, when first the U.S. National Security Adviser, Dr. Henry Kissinger, and subsequently President Nixon visited Peking. Thus was started the long process of "normalization" of diplomatic relations between the People's Republic of China and the United States, which culminated in President Carter's decision in December 1978 to recognize the government in Peking as the "sole government of China," with Taiwan a part of that "one China."

As to the historical relationships between the Republic of China and the United States, the Republic of China had become a vital link in America's "communist containment" chain. The original containment policy, enunciated in the famous "Truman Doctrine" of March 1947, was entirely European and Mediterranean oriented. After the Korean conflict, however, "containing" the PRC became as important in American policy as thwarting Soviet expansionism. As a result, three Asian countries became vital to American security: the Republic of Korea (South Korea), Japan, and the Republic of China. In 1952 Japan and the United States signed a security accord; subsequently, in 1954, Japan established, at U.S. urging, the Japanese Self-Defense Forces. Also in 1954, Korea and the United States became formally bound by a security treaty. Additionally, in 1954, the United States and the Republic of China entered into a mutual defense treaty, which further elaborated and developed earlier security cooperation between the two countries. Finally, the SEATO agreement complemented American defense accords with South Korea, Japan, the Republic of China, the Philippines, Australia and New Zealand.

It is reasonable to conclude, accordingly, that the United States regarded the Republic of China as vital to Free World security in East Asia. Evidence for this position is also found in the fact that the Republic of China was one of the ten largest recipients of American arms from 1950 thru 1978 and that every American president, from Truman through Nixon, asserted the importance of Taiwan's security to the United States.

Normalization and Terminating Official American-ROC Relations

Despite this historically close relationship between the Republic of China and the United States, the Carter Administration in 1978 did not defend the Republic of China's right to security and self-determination with the zeal that might have been expected. In the normalization agreement, Washington met three PRC-stipulated conditions: the "derecognition" of the Republic of China; the termination of the 1954 Mutual Defense Treaty; and the withdrawal of the remaining American forces present on Taiwan.

Regarding a very important question—the future of the Republic of China—the normalization agreement did not state what the Republic of China is but what, according to the official United States position, it is not: it is not the legal government of all China. The United States "acknowledges the Chinese position that there is but one China and Taiwan is part of China." The American position is not stated one way or the other.

A second important aspect of the normalization agreement related to settling the "unification issue" by force of arms. The People's Republic of China refused to renounce the use of force against Taiwan. The United States government, on the other hand, expressed its strong expectation and interest in a peaceful settlement of the "Taiwan issue." President Carter later echoed this theme when he expressed his "conviction" that the people in Taiwan would "face a peaceful and prosperous future." However, the Carter Administration rejected the recommendation of the U.S. Joint Chiefs of Staff that Washington insist upon a formal agreement by the PRC not to use force against Taiwan.

A third important problem concerned U.S. arms sales to the Republic of China. The People's Republic of China insisted that the United States suspend arms sales; Washington refused to do so but did decide to limit its sales to defensive weapons.

Finally, Washington agreed to terminate the Mutual Defense Treaty of 1954 but did not state that it would end or replace other existing treaties and agreements between the United States and the Republic of China.

The United States Congress was not satisfied the Carter Administration had provided sufficiently for the security of the Republic of China. Accordingly, the Congress passed the Taiwan Relations Act which became U.S. law on April 10, 1979. This legislation is well-known and requires no elaboration here. It is sufficient to note that it states it is the policy of the United States to preserve and promote extensive, close and friendly relations between the United States and the people in Taiwan; to make clear that the United States decision to establish diplomatic relations with the People's Republic of China rests upon the expectation that the future of Taiwan will be determined by peaceful means and to consider that other than peaceful efforts to affect the future of Taiwan will be regarded as of grave concern to the United States. Additionally, the United States is pledged to continue defensive military assistance to Taiwan as necessary to enable Taiwan to maintain a sufficient self-defense capability. Finally, should a threat to Taiwan arise, the Congress directed the

President to inform the Congress promptly so that the President and the Congress could determine appropriate action on the part of the United States to cope with the danger involved.

In the eighteen months following the Taiwan Relations Act it is fair to say that the Carter Administration did not carry out the spirit of the law or show much enthusiasm for it. Three policies are indicative of a very reluctant attitude on the part of the Carter Administration. The first, and by far the most important, concerns arms sales. The original proposed legislation sent to Congress in January 1979 did not include provisions for the security of Taiwan against external threats. Consistent with this attitude, the Carter Administration imposed a moratorium on arms sales to the Republic of China. This was lifted in January 1980, after the Afghanistan invasion. However, it seems likely that this was done only to pave the way for arguing for arms sales to the People's Republic of China. Furthermore, the Carter Administration continued to refuse to sell the Republic of China two items strongly desired by Republic of China defense authorities: a high-performance fighter aircraft and the Harpoon missile.

A second policy which indicated the Carter Administration's attitude concerns the bowing to People's Republic of China pressure to convert official agreements and treaties between the Republic of China and the United States to "unofficial understandings." For example, in testimony before a Senate committee, the Deputy Secretary of State, Warren Christopher, admitted that the United States acceded to the People's Republic of China demand that the United States cancel its air transport agreement with Taiwan as a pre-condition to negotiations with the PRC for an air transport agreement. This concession by the American government was all the more significant in view of the very explicit assurances to the Senate that only the defense treaty and related agreements between the United States and the Republic of China would be terminated.[1]

The third indicator of the opposition of the Carter Administration to the spirit of the Taiwan Relations Act was the refusal to refer to the "Government of Taiwan." It could be agreed that normalization of PRC-U.S. relations would preclude future reference to the "Republic of China" by U.S. officials. But it was not necessary to use the phrase "people in Taiwan" in the request for legislation in January 1979. It is true, also, that the Congress did not modify this language. Nevertheless, such a posture on the part of the U.S. government is not helpful to good relations, as required by the Taiwan Relations Act. As Representative Lester Wolff stated to Assistant Secretary of State, Richard Holbrooke: "We as a nation, our business community, no one can deal with 17 million people [on Taiwan]."[2] The Administration, however, refused to use even the phrase "Taiwan authorities" and adamantly opposed use of the term "Taiwan government." It is true, of course, that Republic of China authorities also oppose the use of the term "Taiwan government."

---

[1] See Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Relations, *Oversight of Taiwan Relations Act* (November 15, 1980), pp. 11-19.

All in all, it has to be concluded that, without the intervention of the Congress, the Carter Administration would have permitted U.S. relations with the Republic of China (the "people on Taiwan") to steadily deteriorate and finally altogether terminate.

Toward the Future

It is not yet clear what will be the future of Republic of China-American relations under the Reagan Administration which took office on January 20, 1981. Based on early indications and the philosophical position of the new American government, certain broad generalizations can be made. First, in contrast to the Carter era, a Reagan Administration appears to be willing to consider whatever arms purchases the Republic of China will need to maintain its defense capability, including the Harpoon missile and an air superiority fighter. However, decisions on these requests will be carefully reviewed.

Second, the Reagan Administration probably will generally favor Republic of China participation with other non-communist Asian countries in some kind of regional defense arrangement, although the United States may not take the lead in forming such arrangements.

Finally, although the Reagan government likely will "upgrade" United States relations with the Republic of China, such "upgrading" will not result in restoration of formal diplomatic relations. Overall, relations between Taipei and Washington should be more cooperative and conducted in a friendlier atmosphere than has been the case the last four years.

The Evolution of the Political Framework in the Republic of China

Republic of China authorities have governed the island of Taiwan since World War II ended thirty-six years ago. For over thirty years ROC authorities have maintained an orderly political process despite having suffered defeat on the mainland and being confronted with the necessity to maintain strong defenses against the PRC external threat. Furthermore, ROC authorities have presided over an economic success story paralleled by only a handful of other newly-industrialized countries. At the same time, sustained economic growth has been accompanied by an even more surprising trend toward a more equal distribution of economic rewards throughout the society. Finally, relations between the politically dominant minority who came from the mainland and the local Taiwan population have been acceptable to both groups, despite some inevitable frictions. In short, the Republic of China, although it has the political history of a garrison state, has not succumbed to the psychology of the garrison state; rather, a substantial degree of political and economic freedom has been preserved despite both the external threat and an historically-mandated complex internal political structure. As Ralph Clough, an American who has long been an observer of the Republic of China, has commented:

---

[2] Subcommittee on East Asian and Pacific Affairs, Committee on Foreign Affairs, *Implementation of Taiwan Relations Act: Issues and Concerns* (February 14, 15, 1979), pp. 20-22.

> Taiwan's mix of authoritarian controls, lively local politics, extensive personal freedom for the great majority of the population, and firm but selective guidance of the press has worked well . . . in fostering economic growth and minimizing popular discontent. . . .[3]

Nevertheless, Clough states it as his view that "the time seems to be approaching when fundamental changes" will be needed. He identifies the cause of this need for fundamental change in the desire of the Taiwanese for a greater share of "power at the top" of the Republic of China governing apparatus.

This view may or may not be correct. It would be consistent with trends occurring elsewhere in the non-communist world, however. In the United States, for example, since about 1964 (with the passage of a far-reaching Civil Rights Act) there has been a continuing demand on both political and economic institutions to broaden participation to include more minorities and women. In Canada, dissatisfaction with allegedly unequal participation by French-speaking citizens threatens Canadian national unity. In Central America, demands for political change have been exploited by Marxist groups which now jeopardize a number of established governments. In Malaysia, the established pattern of ethnic Chinese economic predominance and ethnic Malay political predominance is undergoing increased stresses; in Israel, Jewish authorities confront increasing difficulties with an Arab population in the occupied territories.

---

[3] Committee on Foreign Relations, *Taiwan: One Year After United States-China Normalization* (June 1980), p. 8.

Most instructive of all is Iran. In Iran, rapid economic and social modernization was not, unfortunately, accompanied by political modernization. While there are many explanations for the overthrow of the Pahlavi government, most observers are in agreement that the inability of the political regime to adapt to the stresses of rapid economic and social change was a root cause.

None of these examples is intended to suggest that the Republic of China confronts severe stability problems. Rather it is to indicate that certain stresses appear to be common around the world. These are related to either ethnic group conflict or economic modernization unaccompanied by political change or both. Since both stresses currently exist in Taiwan, prudence dictates that ROC authorities not assume their exemption from these phenomena.

There are certain specific political problems which are likely to confront the Republic of China: first, the need to devise a membership formula which will make the representative bodies, particularly the Legislative Yuan, more representative of the entire population of Taiwan; and second, to guide the emergence of a politically more open society.

As to the first, a majority of the members of the Legislative Yuan, National Assembly, and Control Yuan were elected in mainland elections prior to the assumption of power by PRC authorities in 1949. While it has been necessary to maintain the present representative system, in order to symbolize the ROC's role as the government of the mainland as well as of Taiwan, clearly, as time passes, changes will need to continue to occur. Inevitably this will bring greater representation to the people on Taiwan.

With regard to moving toward a more politically open society, there has been progress in this direction already. No one doubts that an occasional dissident leader may be fundamentally disloyal, even to the extent of furthering the aims of a rival government, but it is the *sine qua non* of an open society that it tolerates a political opposition.

It may be argued that there is no particular reason why the Republic of China should evolve toward more democratic structures, since many other countries have not done so and have enjoyed relative political stability. However, the ROC is different from most in the sense that it is economically approaching the norm of the most advanced Western societies. The question arises as to whether stability can be maintained during the process of economic modernization without comparable political modernization. In sum, since the ROC is not prepared to become an autocratic, dictatorial state, it would then logically seek a dual objective: economic progress accompanied by continued political liberalization.

In conclusion, there are reasons to expect that, in a dynamic world, and despite the remarkable and laudatory record of political and economic progress in the Republic of China, new challenges lie ahead. How the ROC authorities confront and solve the problems of legislative reform, democratic growth and broadened political participation will determine whether the Republic of China becomes a political as well as an economic model for the outside world to admire and emulate.

Deterrence and Defense

The future security of the Republic of China is inescapably bound up in the Asian and the global interactions of the great powers. Geographically Taiwan lies at the center of East Asia, a region that is slowly coming to be acknowledged as an area extremely critical to international stability. The transition in American thinking regarding the strategic importance of East Asia is even today still in process. When the Carter Administration took office in 1977 the United States still had primarily a Europe-oriented concept of national security—this in spite of the Second World War and America's two Asian wars in the post-war era. It is symptomatic of this European orientation that while American trade with Asia in the mid-1970s began to exceed trade with Europe, U.S. capital investment in Europe continued to exceed investment in Asia by a ratio of more than 5 to 1.[4] President Carter's disregard for the strategic importance of Asia was symbolized by his announced plan to withdraw U.S. ground forces from Korea—a decision that fortunately was reversed, again a symbolic decision, reflecting at least the beginning of a belated appreciation of Asia's criticality to U.S. national interests.

The overall balance of views of Mr. Reagan and his foreign policy advisers between Asia and Europe is not yet clear. Demographic realities, however, ought to have an impact on the Reagan Administration's Europe-versus-Asia political perspectives: nearly one out of three of the world's people live in the countries of East Asia; militarily, the region is the world's most heavily armed, with the forces of the Soviet Union growing at the greatest rate; economically, the region contains three of the fastest growing economies in the world in Japan, South Korea and Taiwan. In strategic terms, East Asia is the only place in the world where the security interests of four of the five major power centers (United States, USSR, PRC, Japan) intersect. The balance among these powers and their interrelationships are changing; these trends bear importantly on the future security of the Republic of China and the other non-communist nations.

---

[4] *Asian Security in the 1980s: Problems and Policies for a Time of Transition*, Rand Report R-2492-15A, Richard H. Solomon, Editor (Santa Monica, California, November 1979), p. 21.

There are differing views as to the degree to which the U.S. global strategic position has eroded with respect to the Soviet Union, but there is little disagreement over the fact that erosion has taken place. The most optimistic view is that the American-Soviet strategic nuclear balance is one of parity, or "essential equivalence." The broader consensus is that the U.S. position is slipping into inferiority, not only in strategic nuclear strength but across the board in military capabilities. The key question in strategic terms is whether the United States can promptly regain a credible strategic and general purpose force posture for the deterrence of war and the extension of strategic protection to its allies. As a superpower, the United States is constantly watched by every other nation—ally, friend or adversary—to see whether it matches its responsibilities with adequate power to honor them.

The 1970s saw two trends in the military balance in East Asia: growth of Soviet land, sea and air power, and American retrenchment from a long-standing position of deployed strength. The Asian nations generally connect the beginning of the U.S. disengagement with the Nixon Guam speech in 1969, the foreshadowing of the Nixon Doctrine, the essence of which was that America's allies and friends must do more to defend themselves because the United States was going to do less. From 1969 through the spring of 1975, when Saigon fell to North Vietnamese forces, the United States withdrew some 700,000 troops from Asia. One of the two U.S. divisions was removed from South Korea and there were force drawdowns from Japan, the Philippines and Taiwan. The reversal of the original decision by President Carter to remove U.S. ground forces from Korea marked the end of Asian withdrawal plans, and if any predictions of the future can be inferred from the strategic reassessment now taking place, reinforcement is more likely than further retrenchment.

The shifting military balance in Northeast Asia, however, is less the result of American withdrawals than the impact of the Soviet buildup. The most significant changes have been the augmentation of the Soviet Pacific Fleet, the stationing of some 50 divisions of ground forces along the Chinese border and elsewhere in East Siberian districts, and the deployment of the Backfire bomber and SS-20 nuclear-armed missiles in the Northeast Asia region. The boldness of the Soviet military posture is demonstrated by the deployment of several thousand troops on the Japanese-claimed islands of Etorofu and Kunashiri, where the Soviets are also building an airstrip capable of supporting the largest and most advanced Soviet aircraft. The political utility of these forces is well understood by the Soviets, to press Japan in the direction of neutralism, to intimidate the Chinese, and to discourage the United States from taking the risks involved in keeping its forces at the outpost of the arc of confrontation in Asia. Some degree of success has been achieved by the USSR in this political-strategic game.

No nation is more aware of Soviet strategy than the People's Republic of China, which correctly perceives that a major foreign policy objective of the USSR is the containment of mainland China. The Soviets make clear the reality of the threat of the use of force against the PRC, both directly by the massive Soviet forces poised on the northern border, and indirectly by the provision of military aid to Vietnam on the south. The Soviet Union will continue to exert whatever pressure or influence it can bring to bear to prevent the coalescence of efforts to contain Russian expansionist and hegemonistic goals. The PRC is equally determined to draw the United States and Japan into at least a tacit alliance against the Soviets. The PRC's efforts have in fact been generally successful in this endeavor, in concluding a Treaty of Peace and Friendship with Japan in August of 1978, in obtaining full diplomatic relations with the United States on January 1, 1979, and in drawing both these nations into promises of economic and technological assistance to the PRC. Mainland China has for many years protested that it is not a superpower, but its size, its nuclear capabilities—though far short of those of the other superpowers—and its efforts to become as quickly as possible a modern industrial state, would certainly seem to indicate that the PRC aspires to superpower status. Thus the superpower framework is becoming triangular rather than bipolar, and may well in time become quadrilateral, if Japan broadens its economic superpower status to include a commensurate military capability and assumes the political will to participate in the global balance of strategic power. The interactions within this triangular or quadrilateral Asian matrix will bear significantly on the ROC's present and future security status.

Deterrence is costly and risky, but less costly and less risky than its failure. This is a concept better understood by its Asian allies than by the United States. Both the Republic of China and the Republic of Korea, nations who face an enemy close at hand, and whose territories would be devastated should the enemy suddenly strike in force, recognize the absolute essentiality of deterrence. These nations well know that deterrence consists of two key elements. First, a warfighting capability is a necessary but not sufficient element; deterrence is not credible without the political will to use warfighting capabilities if deterrence should fail. Second, neither is deterrence credible without the risk factor. Neither the ROC nor the ROK has any choice about risk—they are where they are, juxtaposed to the enemy. The United States does, however, have a choice about risk, in the disposition of its forces at the frontier of confrontation.

It is this shift in the size and disposition of U.S. forces in East Asia that has created doubts in the minds of American allies about Washington's willingness to be at risk, i.e., first, as to whether the United States understands its deterrent role; and second, whether it will by its statements and actions demonstrate the political will to use its warfighting capabilities if deterrence fails.

A Korean official succinctly expressed the apprehension about the credibility of U.S. deterrence in a statement made in early 1978 when the threat of withdrawal of U.S. ground forces from Korea was still alive. The official had noted the rationale advanced by the U.S. Secretary of Defense for withdrawing the forces, an argument that stressed the nearly equal balance between the forces of North and South Korea, but which omitted any recognition of the political deterrence value of the U.S. force presence.[5] The Korean official reacted with this comment:

> The new argument we hear today is that compensatory arms to Korea constitute a new deterrence to war. Let us not have any illusions about what this means in reality. What it says is that we ought to fight it out if war breaks out. It does not say war will be prevented. Of course we shall fight if war is forced upon us. We will win, too. But the price of victory will be far greater than any price imaginable in the 1950s. We appreciate the consideration and the words of the U.S. government. I wish its efforts were more effectively dedicated to the prevention of war. We appreciate the instruments of defensive war, but I am fervently for stopping it before it starts.[6]

In a similar vein, an observer in the Republic of China, commenting on an American study which stressed the importance of U.S. bases in Japan, Korea and the Philippines, noted that the study failed even to mention Taiwan and its strategic potential, now lost to allied use:

> Taiwan constitutes the first line of defense for U.S. military bases in the Philippines. Should the island fall into unfriendly hands, not only would the security of the Philippines be greatly jeopardized, but the economic lifeline of Japan and South Korea would also be choked off. Besides, Taiwan has excellent naval facilities and one of the best airbases for strategic bombers. These facilities would be of vital importance to the allies in time of war.
>
> Right now, the U.S. military presence in Taiwan has become a thing of the past as a result of Washington's unilateral scrapping of the

---

[5] Department of Defense, *Annual Report, Fiscal Year 1979* (Washington: DOD, 1978), p. 8.

[6] Representative Too-Chin Paik, member of the ROK National Assembly, in *The Korea Herald,* March 1, 1978, p. 5.

> Sino-American mutual defense treaty. The void has been filled by Free China's own highly trained armed forces. Therefore, it is entirely in the interests of the U.S. and its allies in the western Pacific that the fighting forces of Free China be kept supplied with the best weapons available.[7]

Although the comment from Taiwan is directed at the special issue of military bases, it reflects at the same time the kind of general apprehension felt by American allies in East Asia. Both elements of deterrence have come into doubt: U.S. warfighting capabilities, and the willingness to put such capabilities at risk to deter aggression. In the case of the ROC, the government took the obvious action in response to the unilateral U.S. action to terminate the ROC-U.S. mutual defense treaty: "The void has been filled by Free China's own highly trained forces."[8] This action does not by itself remove any of the doubts regarding the United States, but if it is to succeed over a period of time, the doubts must be reduced by U.S. action to become a sustaining participant in the ROC's "filling the void."

Thus the Taiwan Relations Act (TRA) has become an important factor in deterrence in East Asia. Had there been nothing but the stark break in U.S. diplomatic relations with Taipei and the Carter Administration's weak draft of the TRA, deterrence of aggression against Taiwan would have been seriously weakened. The U.S. Congress, by taking the initiative to fill a critical foreign policy gap left open by the Executive Branch, took action to restore at least part of the deterrence lost in derecognition of Taipei, by (1) assuring the supply of arms to Taiwan and (2) making clear the American intention to resist any use of force against Taiwan. The latter requires the maintenance of "the capacity of the United States to resist any resort to force or other forms of coercion,"[9] an agenda item which the new Administration in Washington seems clearly dedicated to fulfill.

Japan's role in regional deterrence is both an important one and the least predictable. There is little doubt but that the ROC and the Republic of Korea intend to devote substantial funds and national attention to military readiness, but in the case of Japan the future is less clear. For the past two or three years there have been inferences to be drawn from statements and actions in Japan that a national consensus is growing in support of greater defense preparedness. In the case of Japan, U.S. indications of military retrenchment in Asia following the withdrawal from Vietnam could be judged to have had one useful effect on the regional security problem: the American image of withdrawal from its previously strong military posture in East Asia caused Japan to look more realistically at its own security problem than at any time in the post-World War II period. The minority of Japanese policy planners who had been advocating greater national defense budgeting began to be heard by the majority who gave defense a low priority. Public opinion polls began to show that the people were even ahead of the policymakers in sensing the need for greater security measures.

---

[7] *FBIS, Daily Report, Asia & Pacific,* December 2, 1980, p. B2.

[8] *Ibid.*

[9] Taiwan Relations Act, Section 2(b)(6).

The signals are evident but the action in Japan to devote greater effort and money to national defense is coming very slowly. While Washington's uncertainty regarding its security role in Asia may have had a salutary effect by creating a shock of security awareness in Japan, what is required from this point onward is U.S. reassurance to Japan and its other allies that the American posture will be strengthened rather than reduced and a concomitant Japanese effort to make the alliance between Japan and the United States a truly mutual effort. Up to now the treaty has meant primarily that the United States will protect Japan (in return for base rights and some monetary support of the U.S. logistic costs to maintain U.S. forces in Japan), but in the future there must be a shared responsibility for security. There can be no doubt but that Japan is aware of the problem. If it is true, as the conventional wisdom states, that the key alliance in East Asia is the U.S.-Japanese security (and economic) relationship, then it is also true that deterrence of aggression in East Asia must involve a substantial role for Japan. The alleged problems of Japan's war-renouncing constitution can be overcome if there can be built a national consensus in Japan to acquire the necessary military capabilities and to accept security responsibilities commensurate with Japan's position in the community of nations. It is a question of political will rather than constitutional legalities.

The four key nations in the East Asian deterrence equation are Japan, South Korea, the Republic of China and the United States, but there are other nations which have roles as well. The Philippines provides the United States with air and naval bases of critical value to regional security. As a member of the Association of Southeast Asian Nations (ASEAN),[10] the Philippines is concerned not only with its own security (linked to the United States by a mutual security treaty) and the contribution made by bases on its soil to regional security, but with the security problems of its ASEAN associates. ASEAN began as an economic association, but because of the turn of events in Southeast

---

[10] Members of ASEAN: Indonesia, Malaysia, the Philippines, Singapore, Thailand.

Asia which saw the United States depart and a Soviet-backed Vietnam become a threat to their security, the ASEAN members have for the past four years been increasing their own defense spending. (The 1980 ASEAN defense expenditure total of US$5.5 billion is double the 1975 figure.) The ASEAN nations will, in spite of greater defense efforts, remain comparatively weak, and will thus hope for a free world military posture in East Asia sufficiently strong to afford them protection. It is possible that during the 1980s there will be some regional security linkage between ASEAN and the nations of Northeast Asia, which will very likely continue to carry the main burden of East Asian deterrence and defense. The ASEAN contributors will not be unimportant, however. The geography of the ASEAN members endows them with strategically valuable base sites, and this may be an even more valuable contribution to regional security in the future than in the past.

Australia and New Zealand have been responsible allies and defenders of freedom in Asia since before World War II. Since 1951 these two nations have been allied with the United States in a security pact (ANZUS),[11] providing for consultation on defense matters. If a Northeast Asian security association were formed, Australia and New Zealand undoubtedly would be supportive of such a development, and possibly even in some way become associated with it.

The role of the Republic of China in deterrence and defense in East Asia is unique. Taiwan has its own special defense problems requiring measures geared to its specific situation. The ROC can, at the same time, make a valuable contribution to regional security. The threat to Taiwan is different from the threat to Korea, Japan and the United States. Japan and the United States see the Soviet Union as the greatest threat to them individually and to regional peace and security as well, while for South Korea the principal threat is North Korea. For the ROC it is mainland China that looms largest as a military threat. ROC military planners accept the consensus of threat analysts of the United States and other nations that neither now nor in the next several years will the PRC be able to mount a successful attempt to capture Taiwan, but nevertheless the PRC threat continues to take first place in their perspective of their security situation. They cannot be sure that rationality will prevail in Peking. The cities, military bases and harbors in Taiwan could be destroyed by a massive air attack (conventional and nuclear) from the mainland, if Peking were to order such an irrational action. The ROC could put up stiff resistance to such an attack, but if the PRC persisted in spite of early losses, their superior numbers would eventually prevail.

---

[11] Australia, New Zealand, United States, Security Treaty, signed September 1, 1951.

Such an irrational scenario is of course unlikely, because if the actual capture of Taiwan were even to be contemplated, its value lies in being taken as nearly intact as possible, to preserve for the mainland's use its extremely valuable industrial assets.

Other less cataclysmic threats to Taiwan are possible, however, such as a blockade of the offshore islands, or a blockade of Taiwan itself. These PRC options will not be elaborated upon here; the point to be made is that there are real military threats to Taiwan from the mainland, and that the security of the ROC requires that such threats be deterred.

The ROC now possesses the two elements of deterrence—a warfighting capability and the will to use it—but does stand in need of closing certain gaps in its warfighting spectrum. Briefly stated, the shortfalls to be filled are: a new generation fighter aircraft to keep the ROCAF superior in quality although not in numbers; anti-tank weapons; more effective ASW equipment, including surface, subsurface and air platforms; surface craft with new SSMs; and offensive and defensive mine warfare capabilities. To meet these needs now and on a continuing basis the key is the assurance of supply from the United States, accompanied by a meaningful dialogue between U.S. and ROC military planners. The latter is essential for setting the right priorities and making the most cost-effective buys, and for coordinating U.S. and ROC military plans for regional security. The high-technology industrial base in Taiwan now allows for a wide choice of sophisticated weapons production for ROC forces. It is not necessarily economical, however, to try to produce many different kinds of military equipment because of the limited numbers required for the ROC forces. Cost effectiveness will be achieved by selecting the proper mix of indigenous production and offshore procurement. The United States, having gone through many years of trial and error in the cost-effectiveness game of weapons production, could probably be helpful in joint ROC-U.S. planning for weapons acquisition.

A Regional Deterrent Strategy

The problems and prospects for a regional security framework involve a "natural" linkage among Japan, the Republic of Korea, the Republic of China and the United States. If there is to be an evolution from the long-standing set of bilateral security arrangements to a multilateral alliance, it would seem most likely to begin with a trilateral linkage among Japan, Korea and the United States, with the addition, by arrangements that take account of the diplomatic and political realities, of the Republic of China to the regional security grouping. If such a security association could be formed among these four nations which share like aspirations for freedom, territorial integrity and the opportunity to participate in the international free-market economy, it could be the nucleus for what might later become an enlarged association of nations within a "Pacific Community." By subscribing to the common cause of resistance to aggression by imperialist powers, the member nations would be combining their individual contributions to deterrence into an aggregate deterrent posture that would be greater than the sum of its parts. Notice would thereby be given to any aggressor that any attack on one of the members will bring a response from all.

The concept of a "Pacific Community" has been germinating for many years, in a variety of forms and in many places. In Taipei in 1968, for example, the Confederation of Asian Chambers of Commerce and Industry (CACCI) was formed, with the objectives of expanding exchanges of information and technology between members[12] in the fields of industry, commerce and agriculture. ASEAN, noted earlier in this study, was formed in 1967 with similar objectives, as was the Asian and Pacific Council (ASPAC), formed in 1966. These and other beginnings in Pacific cooperation reflect a widespread aspiration for joining in common causes, but there are many obstacles. The hope for the "Age of the Pacific" was recently expressed by the Governor of Hawaii, George Ariyoshi, who said that the idea of a Pacific Community was "a unity not yet achieved," but that there was "a new life and new spirit in the Pacific that has brought about renewed interest in the idea of a formalized Pacific Community."[13]

Three major obstacles stand in the way of a concept of regionalism that would elicit full participation by the member nations: (1) the basic cultural and political differences among the many potential members; (2) the fear among some of the smaller and less developed nations that a few of the larger industrialized nations would dominate the association; and (3) differing threat perceptions among the various potential members.

Nevertheless, the concept survives, and various groupings of nations continue to meet to probe the feasibility of international cooperation among those with at least some common aspirations and goals for their individual and group futures. The principal common goal has been economic development, but the concept of national and regional security is more recently receiving greater attention. The threats to security and survival from the two focal points of conflict potential—Northeast Asia and Southeast Asia—cannot be ignored. If, as is already evident, there is a multinational concern for economic problems, there ought to be a group concern for security problems. Though of yet smaller beginnings, there is already evidence of group concern for security, for example, in informal meetings held in Washington and Asia over the past two years, attended by security experts from the United States, Japan, Korea and Taiwan. From these beginnings, closer ties can be built and expanded.

---

[12] Members include Australia, India, Japan, Korea, Nepal, New Zealand, the Philippines and Taiwan.

[13] *The Atlanta Journal & Constitution*, November 30, 1980, p. 1-D.

An essential element of the building of a regional deterrence and defense strategy that will undergird stability and security in East Asia is the military posture of the United States. Deterrence of aggression in Asia cannot be effected by the United States alone, but neither can America's allies and friends establish a credible deterrent without the United States. The military balance in East Asia has for half a decade been tilting against the free world community, but there is some reason to believe that this trend can be reversed. The drawdown of U.S. forces in the Western Pacific has stopped. President Carter belatedly came to understand that there is no public or Congressional pressure to withdraw from U.S. commitments in Asia, and the new Administration in Washington has already made it clear that the United States will take action to strengthen the U.S. military posture in all the world's critical areas. An early agenda item for the Reagan Administration is to undertake a limited mobilization of U.S. military assets.

A credible regional deterrent strategy in East Asia will require:

- A new declaration of the U.S. defense posture in Asia (There has been no well-defined statement of U.S. defense policy in Asia since the end of the Vietnam War.)
- As a fundamental imperative to restore the U.S.-Soviet strategic balance, an upgrade of the U S. strategic nuclear offensive and defensive posture
- Strengthening, as rapidly as assets become available, of the U.S. deployment of forces in the Western Pacific
- Commitment to America's Asian allies of the availability of military equipment necessary for maintenance of their military strength and modernization of their forces
- Declaration by Japan of its future role in regional security, a role which should be commensurate with Japan's major power status, accompanied by necessary actions to implement such an expanded role
- A new multilateral framework of regional security cooperation among the free world nations, beginning with the ROC, ROK,

Japan and the United States, later to include other free nations in East Asia

The Republic of China's location at the center of East Asia inevitably links its future security to the interactions of the powers whose interests converge in this region. As an outpost of freedom, the ROC stands in a position of challenge and opportunity. There is no reason why the ROC should not be a principal and valuable participant in a regional deterrence framework, despite its special political and diplomatic status. Indeed, as time goes on, and the ROC continues to demonstrate its economic vitality and the political will to defend its way of life, an ultimate solution will be found for the ROC's place in the community of free nations of the world. By continuing in and strengthening its association with its free world neighbors, the ROC will both contribute to and be protected by an enhanced deterrent against aggression. A key relationship will be that with the United States, which must do its part as a responsible ally and defender of security and stability in East Asia. The ROC will necessarily recognize that the United States faces a complex political and diplomatic situation in managing its dual relationships with the two Chinas. It is inevitable that occasions will arise in which neither the ROC nor the PRC will be in full approval of decisions which the United States must make in carrying out its responsibilities as a global power. The key to successful management of this problem lies in preserving mutual trust between the ROC and the United States. Fortunately there is a deep reservoir of trust built up over many years, and it thus becomes the primary objective in the relationship between the Republic of China and the United States to preserve this key to their mutual survival.

DIVIDED CHINA: the VIEW from TAIPEI

James C.Y. Soong

President Jimmy Carter's decision on December 15, 1978, to recognize communist China and terminate diplomatic and military ties with the Republic of China on Taiwan (ROC) carries in its wake far reaching strategic, political, economic, legal, and moral consequences. While the benefits accruing to the United States from its recognition of the Chinese communist regime remain speculative, some of the costs are quite concrete.[1] The U.S. Congress, in a bipartisan move to mend the damage done to the Republic of China's security and international political standing, and also to reaffirm American national interest in this part of the world, decided to intervene to at least partially restore the situation which had existed prior to the derecognition of the ROC government. Congress was also annoyed by the Administration's failure to consult Congress before taking such a momentous step.[2] Thus by its recognition of Peking solely on Peking's terms, the Carter Administration not only created ripples in the Taiwan Straits but also added to the general difficulty President Carter's foreign policies were having with the Congress. It was in this context that the Congress decisively rejected the arrangements proposed by President Carter for maintaining future relations with the ROC. The bill (S.245) which was submitted by the Carter Administration set the guidelines for continuing commercial, cultural, and other relations between the people of the United States and the people of Taiwan. Unfortunately, however, it said nothing about the future security of the Republic of China, nor what U.S. policy would be toward helping preserve the independence and territorial integrity of its long-term ally. This omission, to which Congress strongly objected, was undoubtedly intended to avoid adverse reaction from Peking.

After weeks of heated and sometimes emotional debate between Administration representatives and members of Congress, the Senate by a 90-6 vote and the House of Representatives by a 345-55 vote passed the Taiwan

International Security Review
Vol. VII, No. II. Summer 1982
ISSN 0191-8025
Copyright 1982 The American Security Council Foundation

EDITOR'S NOTE: This article was written in early spring 1982 prior to the U.S.-PRC communique in August. This recent development obviously alters the assessments and conclusions made by the author, which might be different if written today.

Relations Act (TRA) on March 29, 1979. The TRA (Public Law 98-6) contains provisions greatly superior to those of the original bill submitted by the White House. The improvement is particularly evident in Section 2, reaffirming continuing American interest in and concern for the security of Taiwan. It is significant that Section 2 defines America's interests in the security of Taiwan in rather broad and flexible terms. Some analysts have said this would give the United States a number of options in the event of a crisis threatening the security of Taiwan. Others have contended that the ambiguous wording of the security provisions might not have a deterrent effect on Peking, which has adamantly refused to renounce the use of force against Taiwan. That the security provisions have invoked wide speculation indicates that some major problems involved in the security of the ROC have not been resolved.[3]

Nevertheless, through the intervention of the Congress, a serious political crisis was averted in U.S.-ROC relations following the switching of American recognition from Taipei to Peking. The friendship between our two countries was preserved by the intent of the Congress and a large segment of the American people to place the new relationship between the two former allies on the right track. In the words of former Senator Jacob K. Javits, Republican of New York, most members of Congress were prepared to scrap the arrangement with Peking unless the TRA contained an American obligation to help safeguard security and to assist the ROC to maintain defense capability. Put briefly, the Taiwan Relations Act established the basic principle and spirit that substantial relations between the United States and the Republic of China should continue without interruption and that formal recognition of communist China by the United States should not in any way jeopardize the existing relationship between Washington and Taipei. The significance of the TRA must be understood in this context. President Carter belatedly recognized this fact. Accordingly, although clearly he did not favor the passage of the Taiwan Relations Act, he did not veto it or even actively oppose it. Indeed, it seems likely that he realized that he had underestimated American feelings of friendship for the Republic of China and the Chinese people.

The Taiwan Relations Act During the Carter Administration

In such "enabling legislation" as the Taiwan Relations Act, however, Congress only stipulates the guiding principles and authorizes the President to prescribe such rules and regulations as he may deem appropriate to carry out the purposes of the Act.[5] Hence, the effective implementation of the

TRA rests largely on the good faith of the Executive Office. Although Congress has the authority to monitor the implementation of the TRA, during the Carter Administration it was presented with a series of *faits accompli* which ran counter to both the letter and spirit of the Act. Failure to consult the Congress was undoubtedly due to the fact that decisions were made by a handful of high officials in the executive branch who were overly sensitive to any adverse reactions from Peking.[6] Thus, while both in substance and in spirit, the Taiwan Relations Act provides the legal basis for the Executive Office to carry on strong and substantial relations between the United States and the Republic of China, excessive sensitivity to even the slightest sign of protest from Peking led the Carter Administration to avoid even the appearance of a strong commitment to the legislation governing the relations between our two countries. Since the President is the chief executor of the Taiwan Relations Act, his action or inaction became crucial in facilitating or impeding implementation of the Act. This was especially important with regard to implementation of the security provisions.

President Carter's signing of the Executive Order on June 22, 1979 for implementation of the Taiwan Relations Act formally laid the legal basis for the new U.S.-ROC relationship. This arrangement for conducting "unofficial" U.S. relations with the ROC is unique in the annals of American diplomacy. Although the TRA provides a framework for strong and substantial relations between Washington and Taipei, the president and his chief advisers were determined not to impair the broad strategic and other "parallel interests" Washington had established with Peking. Given this viewpoint, it is not surprising that the American government took a series of actions in 1979 and 1980 which, in my opinion, were harmful to the security situation in East Asia and which naturally caused deterioration in relations between our two governments. For example:

☐ Washington imposed a one-year moratorium on negotiation of arms sales to the ROC through 1979 despite the fact that the U.S.-ROC Mutual Defense Treaty remained in force during that year. When on January 3, 1980, the State Department announced the approval of arms sales to the ROC, it sanctioned only 6 of the 18 defense items that the ROC had requested. The remaining items were denied or a final decision was deferred until some unspecified time. The items denied to the ROC included sophisticated weaponry indispensable to update its aging arsenal: an advanced jet fighter to replace existing F-104s, F-5As, and F-5Es, the Harpoon missile, the Standard air defense missile, and armored personnel carriers.[7] The decision not to provide these items stemmed in large part from the Administration's determination to avoid a rebuff from Peking. The Senate Foreign Relations Subcommittee on East Asian and Pacific Affairs, in a June 1980 fact-finding report, indicated that such an overriding concern over Peking's reactions conflicted with the intent of the Taiwan Relations Act.[8]

☐ The American government terminated the U.S.-ROC Air Transport Agreement, signed on December 20, 1946, in Nanking, although the agreement was amended on December 20, 1950, and October 22, 1969, to apply only to the territory of Taiwan. Washington could have entered into an air agreement with Peking without terminating the air agreement with Taipei and replacing it with a new "unofficial" agreement.[9] This action violated Section 4(D) of the TRA, which specifically stated that all existing agreements and treaties concluded prior to January 1, 1979, would remain in force.

☐ The Carter Administration did not protest when the International Monetary Fund and the World Bank decided to expel the ROC in order to facilitate Peking's admission to those organizations. It may have been beyond the capability of the United States to prevent the expulsion of the ROC from the two international financial institutions. An indication of American concern, however, would at least have reassured Taipei of the Administration's intention to support the ROC's status in international organizations. Section 4(D) of the TRA states that the United States should not support the exclusion or expulsion of Taiwan from continued membership in any international financial institution or other international organization. Thus the American decision not to contest the decisions of the Fund and the World Bank clearly contradicted Congressional intent as expressed in the Taiwan Relations Act.

☐ The State Department intervened with a letter to the U.S. Olympic Committee with regard to the decision of the International Olympic Committee concerning the ROC's eligibility for the 1980 Olympic games. When the ROC Olympic Committee filed suit to enter the Lake Placid games in New York with its traditional emblems, the Justice Department was asked by the State Department to intercede in appellate proceedings on grounds that the "Taiwan issue" was political rather than legal.[10] The ROC Olympic team was subsequently prohibited from participating. This action by the State Department did not conform to the provisions of Section 4(D) of the TRA.

☐ In January 1980 the Department of State instructed the U.S. Customs Office that no commodities bearing the label "Made in Republic of China" would be admitted into the United States after August 1, 1980. As protests arose on Capitol Hill and the media focused on the issue, the State Department first extended the effective date for the embargo to December 1, 1980, and eventually rescinded the ruling. The action by the State Department was not only unnecessary but had it been carried out, it could have disrupted commerce and caused considerable hardship to both manufacturers and American distributors.[11] This action constituted a violation of Section 4(A) of the TRA.[12]

☐ Section 10(B) of the TRA provides that "The President is requested to extend to the instrumentality established by Taiwan the same number of offices and complement of personnel as were previously operated in the United States by the government authorities on Taiwan recognized as the Republic of China prior to January 1, 1979." Contrary to this stipulation, the Carter Administration allowed only nine offices of the Coordinating Council for North American Affairs (CCNAA) to operate in the United States. The ROC had 15 consular offices in the United States prior to Washington's recognition of Peking. The reduction in the number of ROC offices in the United States has caused inconvenience to American businessmen who relied on their services[13] and also inconvenienced American citizens and others planning to visit Taiwan.

Other problems arose during 1979 and 1980. These included: reduction of the personnel of the American Institute in Taiwan (AIT) to 55—half the size of the previous U.S. embassy and consular staff—despite increasing commercial, cultural and other relations between the two countries; the State Department refused to allow ROC military personnel to receive "professional training" in the United States (this could seriously handicap the ROC's future military capability, including the development of its own modern weaponry and the operation of sophisticated weapons purchased from the United States; because the "unofficial" relations between the United States and the Republic of China were interpreted in an extremely narrow sense, officials of AIT and CCNAA were barred from official contact, and American officials were discouraged from visiting Taiwan even in a private and unofficial capacity; and finally, approval of visa applications to AIT by the U.S. consulate general in Hong Kong cause an unnecessary delay of one to three days. Japan, Indonesia, and some other countries which have established "unofficial" arrangements with the ROC authorized approval of visas by their offices in Taipei.

In congressional testimony on U.S.-ROC relations since implementation of the Taiwan Relations Act, officials of the Carter Administration said the new arrangement "unexpectedly worked well" and that earlier fears about the security of Taiwan were unfounded. They also said the ROC had not only survived the shock of derecognition but had continued to thrive and prosper. Administration officials and their supporters tried hard to convince Congress that Peking's "peaceful" intentions had greatly reduced tensions in the Taiwan Straits to the lowest level in the three decades.[14] They asserted that the growth in the U.S.-ROC bilateral trade and American private investment in Taiwan gave clear indication that the "unofficial" arrangement had worked "very smoothly."

It is true that economic relations after derecognition have prospered. U.S.-ROC bilateral trade reached $9.1 billion in 1979, an increase of $1.6 billion, or 23 percent, over 1978. American exports to Taiwan in that year increased 40 percent, while U.S. private investment in Taiwan increased by 15 percent. The ROC's total trade with 120 countries reached $31 billion in 1979, an increase of 31 percent over the previous year. Foreign investment in the ROC reached $329 million in 1979, an increase of $116 million over 1978, and went on to a record $465 million in 1980. Travel from Taiwan to the United States registered a 60 percent increase in 1979. U.S.-ROC two-way trade during 1981 totaled U.S.$12,928.7 million, an increase of U.S.$1,494.9 million, or 13 percent, over 1980.[15] It has been conservatively estimated that U.S.-ROC trade will exceed U.S.$250 billion in the decade of the 1980's. Taiwan's energy production will double in the next ten years, while its industrial production may increase seven-fold.[16]

But the ROC's continued progress in the economic field and growth of U.S.-ROC commercial relations are attributable to factors quite unrelated to the implementation of the Taiwan Relations Act. Among these are ROC governmental policies, which foster economic growth while at the same time reducing economic inequalities among the population. In addition, Taiwan has a highly competent, technically-oriented labor force inbred with the traditional work ethic. Thus the international business community retains its confidence in the political stability, investment environment, and continued economic progress of Taiwan.

The ROC's sustained economic development, however, will depend on its ability to upgrade its defense capability and assure stability in the Taiwan Straits. The need to improve the ROC's defense strength has been made more urgent by the absence of military ties between the United States and the ROC. This was precisely where the Carter Administration was lukewarm, reflecting Peking's strong opposition to American arms sales to Taipei. The only strong supportive remark about the U.S. commitment to the security of Taiwan came at a White House Conference of Journalists on February 10, 1979. President Carter said the establishment of diplomatic relations with Peking "does nothing to prohibit a future president or a future congress from interposing the American Pacific fleet between the island of Taiwan and the mainland of China or from even going to war, if we choose, to protect the people of Taiwan."

American Policy Under the Reagan Administration

During the U.S. presidential campaign of 1980, the Republican platform and the Republican candidate, Ronald Reagan, focused criticism on the foreign and defense policy of the Carter Administration and promised a new policy based on strength. The Republican platform adopted on July 15, 1980, while reaffirming America's new relationship with communist China, declared that:

> . . . we deplore the Carter Administration's mistreatment of Taiwan, our long-time ally and friend. We pledge that our concern for the safety and security of the 17 million people of Taiwan will be constant. We would regard any attempt to alter Taiwan's status by force as a threat to peace in the region. We declare that the Republican Administration, in strengthening relations with Taiwan, will create conditions leading to the expansion of trade and will give priority consideration to Taiwan's defense requirements.[17]

Mr. Reagan did not conceal his "special feelings" for the Republic of China. His remarks of August 25, 1980, favoring an upgrading of U.S.-ROC relations, caused an uproar in Peking. His desire to implement both the spirit and the letter of the Taiwan Relations Act undoubtedly reflected the majority sentiment of the American people. Mr. Reagan's goodwill toward the ROC has been widely publicized.

Secretary of State Alexander Haig indicated the Reagan Administration's new foreign policy approach when he emphasized the need for credibility, flexibility, reliability, and consistency in the conduct of American diplomacy. With regard to the U.S.-ROC relations, Secretary Haig said Washington would not allow Peking to exercise a veto over American obligations and commitment to the Taiwan Relations Act. During Haig's visit to mainland China in June of 1981, the Secretary of State reaffirmed the U.S. commitment to sell arms to the Republic of China. Haig and his Chinese communist counterpart "agreed to disagree" on this issue. At a recent meeting with Chinese communist Premier Chao Tzu-yang at the Cancun Summit in Mexico, President Reagan reiterated his Administration's determination to carry out U.S. obligations to the ROC. The American chief executive bluntly told Chao that he rejected any idea of playing the "China card" or the "Moscow card."

It would be unrealistic to anticipate major changes in U.S. "China policy" under the Reagan Administration. The strategic and other factors which led three previous American presidents to establish the "Peking connection" are still present. Communist China will remain a factor in U.S. global strategy, especially as the Reagan Administration faces undiminished Soviet expansion worldwide. It is within the context of complex global geopolitics that we must consider the dilemmas and policy options of the Reagan Administration with regard to its obligations to the ROC. The dilemma is that the Administration wishes to maintain the present relationship with

Peking while fulfilling its commitment to the ROC. That commitment is embodied in public law—the Taiwan Relations Act.[18]

To cope with the dilemma and formulate policy options to improve the Washington-Taipei partnership will require courage and creativity on the part of the Reagan Administration as well as the Congress, which is the creator and guardian of the Taiwan Relations Act. President Reagan has indicated that his Administration will implement the TRA both in letter and spirit. Few people doubt his sincerity. The mood in Congress inclines toward a close U.S.-ROC relationship. There are indications that both the White House and Congress will consult closely to ensure that U.S.-ROC relations remain on a steady course. Close cooperation and sufficient consultation between the White House and Capitol Hill—lacking in the Carter era—would certainly be conducive to implementation of the TRA in a positive and creative way. It would allow the Executive to deal with the ROC strictly on the basis of American national interest. This is especially important with regard to the implementation of the security provisions of the TRA, which the previous Administration carried out only half-heartedly.

A poll taken in June 1981 among members of the U.S. Senate by the Washington-based American Council for Free Asia showed at least 51 senators on record in favor of selling FX (F-16-J79) aircraft to the ROC. Six senators were opposed to the sale, 32 were listed as undecided and 11 either did not express an opinion or did not respond to the poll.[19] During his visit to Taiwan in August of 1981, Representative Clement J. Zablocki, chairman of the House Foreign Affairs Committee, expressed confidence that the Reagan Administration would recommend such military supplies as were needed by the ROC and that Congress would approve.[20] Senator John Glenn, a member of the Senate Subcommittee for East Asian and Pacific Affairs, also reflected this mood of Congress when he said at a Taipei press conference on August 31, 1981, that "We want to continue our efforts on the Senate Foreign Relations Committee to see that the Taiwan Relations Act is implemented and that all provisions of it are carried out."[21] These are encouraging signs. How the Executive Office and Congress will eventually translate their good intentions into concrete actions remains to be seen.

Even in the post-Carter era, some Americans have continued to view implementation of the Taiwan Relations Act and U.S.-ROC relations within a complex strategic and geopolitical context. For example, several members of the House Foreign Affairs Subcommittee on East Asia and the Pacific held a series of hearings attended by State Department and Defense Intelligence Agency officials, then wrote a letter to President Reagan indicating that sale of advanced FX jets to the ROC would be a "mistake" and could seriously damage U.S. relations with Peking. The letter also stated that witnesses at the hearings agreed that military tensions in the Taiwan Straits were "at an all-time low" and that communist China had no present or immediately foreseeable intention of trying to resolve the Taiwan problem by force.[22] These are familiar and unconvincing arguments reminiscent of the Carter era. The merits of such arguments have been challenged by many qualified military and political analysts.[23] Of course, opponents of selling modern weapons to the ROC will continue to make their voices heard. We can only wait and see how much weight their opinions will have on decisions of the White House and the Congress. If the Reagan Administration and Congress stick to their pledge that Peking will not have a veto over implementation of the Taiwan Relations Act, there is no reason for pessimism.

The upgrading of the ROC's defense capability is one of the principal tests for the Reagan Administration. Other areas of U.S.-ROC relations needing improvement include: (1) a more flexible definition of "unofficiality" in order to improve and strengthen the relationship; (2) allowing ROC military personnel to receive professional and technical training in the United States to ensure the continued modernization of ROC military research and development; (3) permitting U.S. officials to visit Taiwan in a private capacity so they will be better informed on the ROC situation; (4) allowing the CCNAA to maintain the U.S. offices prescribed in Section 10(B) of the TRA so as to facilitate services to U.S. businessmen, tourists, and others; and (5) elevating the substantial relationship between the U.S. and the ROC to a more mutually satisfactory level.

Beyond the Taiwan Relations Act

In an interview with Marvin Stone, editor of *U.S. News & World Report* in Taipei in September 1981, President Chiang Ching-kuo said that mutual trust is gradually being restored between the Republic of China and the United States, and that this improvement is expected to continue.[24] In the year and a half since President Reagan entered the White House, there have been signs of an improved U.S.-ROC partnership. This optimism is reinforced by President Reagan's determination to restore American leadership to the free world and to help troubled allies and friends of the United States. The government and civic leaders of the Republic of China are reassured by President Reagan's farsighted understanding of the danger of communism, which he has described as an aberration in the history of mankind. President Reagan's statement that communist China is not an ally of the United States, and that he rejects any idea of playing the "China card" or the "Russia card," could signal the beginning of a new direction in the Administration's China policy.

Relations between the United States and communist China have yet to be fully "normalized" after three years of diplomatic ties. It is no secret that communist China has not normalized relations with many countries with which it has had diplomatic relations for a long time. Peking's inability—or lack of sincerity—in fully normalizing relations with the members of ASEAN, Japan, India, the Netherlands, and other countries provides cases in point. According to *The New York Times*, communist China sought Secretary Haig's visit in June of 1981 to clarify the Reagan Administration's policy, lest there be "retrogression" in Washington-Peking relations.[25] But even after Secretary Haig's visit to Peking and the meetings between President Reagan and Chinese communist leaders in Mexico and in Washington, Peking's media have continued to complain about the shortcomings in the Washington-Peking relationship. Peking considers the U.S. commitment to the Taiwan Relations Act to be the greatest "obstacle" to satisfactory Washington-Peking relations.[26] It is clear that during Vice President Bush's recent trip to Peking that the communist leaders tried very hard to get the Reagan government to agree to cessation of arms sales to our country. We are, on the one hand, pleased that the United States has remained firm on this point. On the other hand, we have to say that we are disappointed that the Reagan Administration apparently hopes to foster closer relations with mainland China. And we do not understand why Washington still denies us an air-superiority fighter to maintain peace in the Taiwan Straits.

In considering policy options to strengthen the U.S.-ROC relationship, the Reagan Administration must look beyond the arrangement set forth in the Taiwan Relations Act and explore the opportunities as they present themselves. The positive role of the Republic of China in East Asia and the Western Pacific, and an emerging Asian-Pacific community that could have great significance for U.S. strategic, political, and economic interests in this part of the world, must be considered in assessing the U.S.-ROC partnership. The Asian-Pacific region has emerged as the new economic center of the world; its trade volume with the United States has begun to surpass that between Western Europe and America. In the decades ahead, the free nations of the Asian and Pacific region are expected to play a greater role in international commerce, banking, communication and transportation. This will usher in a new era for the U.S.-Asian-Pacific partnership and change the economic, strategic, political and cultural map of the world. It will also present new challenges and opportunities for American policy.

Few would dispute the contributions of the Republic of China in helping create stable conditions in the Asian-Pacific region. So it is that Japan, Australia, New Zealand, the ASEAN countries, and other noncommunist nations of the region have considered it important to maintain mutually beneficial and substantial relations with the ROC even in the absence of diplomatic relations. The ROC has become one of the principal trading partners of ASEAN since the late 1970's. The harmonious relationship between the ROC and these countries must be attributed to the fact that their governments have not defined their "unofficial" relations with Taipei in a narrow sense.

As the free area of Northeast Asia and the Western Pacific undergoes a great transformation, it is necessary to reassess the role of the United States. This will include changes in the U.S.-ROC relationship going beyond the Taiwan Relations Act. Among the questions that need to be examined are these: (1) What policy will the United States adopt in light of the emergence of a U.S.-Asian-Pacific partnership and what will be the place of the ROC? (2) What will be the role of the ROC in the emerging U.S.-Asian-Pacific community to serve the best interests of both the ROC and the United States? (3) What should be the policy of the United States to strengthen the international status of the ROC and provide for the increased role of the ROC in the emerging U.S.-Asian-Pacific partnership? (4) Does the Taiwan Relations Act provide enough options to cope with regional changes in the next decade?

To raise these questions is to recognize the challenges as well as the opportunities in working toward a more viable U.S.-ROC partnership in the changing environment of this part of the world. Thorough implementation of the Taiwan Relations Act in letter and spirit would unquestionably lay the foundation for future readjustments and policy options required by the circumstances. The TRA should not be considered an end-product of U.S. policy. Politics is the art of the possible. It will require creativity, courage, and imagination to place the U.S.-ROC partnership in a much larger perspective. In this regard, it is important that the United States should not let others dictate its relationship with the ROC nor exercise a veto over American policy.

It is sad but true that, as has been said often in the past, nations do not have permanent friends but only permanent interests. In the final analysis, therefore, what we do here in the Republic of China on Taiwan will have a great bearing on our relations with the United States and other countries as well. We intend to continue to demonstrate that it is in America's national interest to maintain close relations with us. We are a strong and viable society, rapidly becoming a very significant economic partner of other free nations. The United States should not remain closely associated with us out of past sentimental ties; rather, we are now and will continue in the future to contribute significantly to the kind of world which the United States hopes will finally emerge in East Asia.

It cannot be denied that developing ties with Peking may confer certain tactical advantages on Washington in its struggle with the Soviet Union. What should be borne in mind, however, is that these alleged advantages are ephemeral—they cannot alter the fundamental reality that the communist and free world nations are pursuing antithetical goals. In contrast, our relations with America rest on the firmer ground of a shared vision of the future.

NOTES

1. William R. Kintner and John F. Cooper, *A Matter of Two Chinas: The China-Taiwan Issue in U.S. Foreign Policy* (Philadelphia: Foreign Policy Research Institute, 1979), p 95.

2. Senator Jacob K. Javits provides an excellent insider's account of why the U.S. Congress needed to rectify Carter's unilateral decision in his article "Congress and Foreign Relations: The Taiwan Relations Act," published in the Fall 1981 issue of *Foreign Affairs*.

3. A thorough analysis of the problems involving the security of the ROC by Edwin K. Snyder, A. James Gregor, and Maria Hsia Chang can be found in *The Taiwan Relations Act and the Defense of the Republic of China* (Berkeley: Institute of International Studies, University of California, 1980).

4. Javits, "Congress and Foreign Relations," p 56.

5. Section 13 of the Taiwan Relations Act.

6. Statement of J. Kenneth Fasick, director, International Division of the General Accounting Office, at the House Subcommittee on Asian and Pacific Affairs (May 14, 1980).

7. Robert L. Dowen, "Washington-Taipei Relations Since 1979: A Benign Neglect," a paper presented at the 22nd Conference of the American Association for Chinese Studies at the University of Virginia, November 15-16, 1980, p 12.

8. Ibid.

9. A. James Gregor, "The United States, the Republic of China, and the Taiwan Relations Act," *Orbis* (Fall 1980), p 619.

10. Dowen, "Washington-Taipei Relations Since 1979," p 17.

11. Ibid, p 14.

12. Section 4(A) of the Taiwan Relations Act stipulates that "The absence of diplomatic relations or recognition shall not affect the applications of the laws of the United States with respect to Taiwan, and the laws of the United States shall apply with respect to Taiwan prior to January 1, 1979." According to one analyst, if Taiwan can no longer use the label "Made in ROC," the laws are obviously not being applied in the same manner as prior to January 1, 1979, when it could use such designation. See Chang King-yuh,

"Partnership in Transition: A Review of Recent Taipei-Washington Relations," *Asian Survey* (June 1981), p 613.

13. Testimony of David Kennedy, chairman of the Sino-American Economic Council, at the House Foreign Affairs Committee (October 24, 1979).

14. Testimony of Richard C. Holbrooke, Assistant Secretary for East Asian and Pacific Affairs, at the House Subcommittee for East Asian and Pacific Affairs (June 11, 1980).

15. *China Post* (October 8, 1981).

16. Testimony of David Kennedy, chairman of the Sino-American Economic Council, at the House Foreign Affairs Committee (October 24, 1979).

17. See the Committee on Resolutions, *Republican Platform* (Detroit, MI: July 14, 1980), p 71.

18. A. James Gregor, "The Reagan Administration China Policy Options," *Sino-American Relations* (Taipei), Summer 1981, p 17.

19. *China Post* (June 25, 1981).

20. *China Post* (August 21, 1981).

21. *China Post* (September 1, 1981).

22. *China Post* (June 22, 1981).

23. Wang Chi-wu, "Military Preparedness and Security Needs: Perception from the Republic of China," *Asian Survey* (June 1981).

24. *U.S. News & World Report* (October 5, 1981), p 91.

25. *The New York Times* (June 5, 1981), pp A1-A6.

26. The September 7 and September 14, 1981, issues of the *Beijing Review* alleged that the Taiwan Relations Act is the greatest "obstacle" to normal relations between Washington and Peking.